State Law Library of Montana

MONTANA LEGISLATIVE HISTORY

Chapter 648 Session L 1983
Bill House 755 Senate _____

History and final status sheet X
Introduced bill X
Fiscal note X
Third reading bill X
Final version of bill X

House Committee on Taxation

Hearing date(s)* 3-15 3-21 3-23

Executive action (vote) date(s)* 3-23

Comm. Report 3-23

Floor 2nd reading & vote 3-26;4-18

Floor 3rd reading & vote 3-28;4-18

Senate Committee on Taxation

Hearing date(s)* 4-7 4-13 4-14pm

Executive action (vote) date(s)* 4-14

Comm. Report 4-14

Floor 2nd reading & vote 4-14

Floor 3rd reading & vote 4-15

Conference or Free Conference Comm. _____ Yes X No

Hearing date(s)* _____

Executive action (vote) date(s)* _____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? _____ Yes X No

Committee _____ Report _____

NOTES: First referred from the floor to House Select Committee on Economic Development on 2/12. Referred to House Taxation on 3/3. The Law Library has no minutes for this bill in the Select committee.

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Compiled by: rg

Date: 8-22-17

3RD READING: 04/15/83, ADOPTED AYES: 95; NAYS: 0

SENATE
2ND READING: 04/15/83, BE ADOPTED AYES: 49; NAYS: 0
3RD READING: 04/16/83, BE ADOPTED AYES: 48; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/20/83
SIGNED: 4/26/83, CHAPTER 632

HB 751 -- BRAND, MENAHAN, J. JENSEN, ET AL. -- AUTHORIZING THE REGULATION OF RURAL COOPERATIVE UTILITIES BY THE PUBLIC SERVICE COMMISSION; ....

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/12/83
HEARING: 2/17/83
DIED IN COMMITTEE

HB 752 -- KADAS, D. BROWN -- TO REQUIRE THE DEPARTMENT OF COMMERCE TO ADOPT ENERGY EFFICIENCY STANDARDS FOR CERTAIN APPLIANCES AND TO PROHIBIT THE SALE OF APPLIANCES NOT MEETING SUCH STANDARDS.

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/12/83
HEARING: 2/17/83
REPORT: 02/17/83, DO PASS
2ND READING: 02/19/83, DO PASS AYES: 47; NAYS: 45
3RD READING: 2/22/83, DO NOT PASS AYES: 47; NAYS: 51
BILL KILLED

HB 753 -- SHONTZ, FABREGA, BENGTSON, ET AL. -- TO REVISE THE DEFINITION OF BUSINESSES THAT QUALIFY FOR PROPERTY TAX RATE REDUCTIONS FOR IMPROVEMENTS TO REAL AND PERSONAL PROPERTY; AMENDING ....

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON TAXATION: 02/12/83
HEARING: 3/1/83
REPORT: 03/04/83, DO NOT PASS
BILL KILLED: 03/07/83

HB 754 -- MCBRIDE, FARRIS, HEMSTAD, ET AL. -- TO PROHIBIT DENIAL OF REASONABLE PARENTING LEAVE FOR THE FATHER OR MOTHER OF A NEWBORN OR NEWLY ADOPTED CHILD; AMENDING ....

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 02/12/83
HEARING: 2/17/83
REPORT: 02/19/83, DO PASS, AS AMENDED
2ND READING: 02/22/83, DO NOT PASS AYES: 61; NAYS: 39
BILL KILLED

HB 755 -- YARDLEY, FABREGA, METCALF, ET AL. -- PROVIDING A CREDIT AGAINST INDIVIDUAL PARTNERSHIP, SMALL BUSINESS CORPORATION, OR CORPORATE INCOME TAX LIABILITY FOR CAPITAL EXPENDITURES FOR COMMERCIAL SYSTEMS THAT GENERATE ELECTRICITY BY MEANS OF WIND POWER; PROVIDING FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; ....

INTRODUCED: 02/12/83
REFERRED TO SELECT COMMITTEE ON ECONOMIC DEVELOPMENT: 02/12/83

REREFERRED TO COMMITTEE ON TAXATION: 03/03/83
HEARING: 3/15/83
REPORT: 03/23/83, DO PASS, AS AMENDED
2ND READING: 03/26/83, DO PASS AYES: 66; NAYS: 25
3RD READING: 03/28/83, DO PASS AYES: 80; NAYS: 17

TRANSMITTED TO SENATE: 03/28/83
REFERRED TO COMMITTEE ON TAXATION: 4/5/83
HEARING: 4/7/83
REPORT: 04/14/83, BE CONCURRED IN, AS AMENDED
2ND READING: 04/14/83 AYES: 29; NAYS: 15
3RD READING: 04/15/83 AYES: 40; NAYS: 8

RETURNED TO HOUSE WITH AMENDMENTS: 4/16/83
2ND READING: 04/18/83, BE CONCURRED IN AYES: 90; NAYS: 2
3RD READING: 04/18/83, BE CONCURRED IN AYES: 99; NAYS: 1

TRANSMITTED TO GOVERNOR: 04/21/83
SIGNED: 4/27/83, CHAPTER 648

HB 756 -- WALDRON -- DELINEATING AND EXPANDING THE CAUSES OF ACTION AND REMEDIES AVAILABLE TO AN INJURED EMPLOYEE OF AN UNINSURED EMPLOYER OR TO THE EMPLOYEE'S BENEFICIARIES; AMENDING ....

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 02/12/83
HEARING: 2/17/83
DIED IN COMMITTEE

HB 757 -- BRAND, D. BROWN, KEYSER, ET AL. -- PROVIDING THAT THE ELECTION OF EACH MEMBER OF THE PUBLIC SERVICE COMMISSION BE SUBMITTED TO THE ENTIRE ELECTORATE OF THE STATE; AMENDING ....

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 02/12/83
HEARING: 2/16/83
DIED IN COMMITTEE

HB 758 -- BERGENE, MILLER, HEMSTAD, ET AL. -- REVISING THE COUNTY POOR FUND MATCHING GRANT-IN-AID PROGRAM BY PROVIDING THAT CERTAIN EXPENSES ARE REASONABLE AND NECESSARY POOR FUND EXPENDITURES FOR PURPOSES OF THE MATCHING GRANT-IN-AID PROGRAM AND MAKING THESE PROVISIONS RETROACTIVE TO JULY 1, 1982; DEFINING "INDIGENT PERSON" AND "MEDICAL SERVICES" FOR POOR FUND PURPOSES; MAKING THE COUNTY POOR FUND MATCHING GRANT-IN-AID PROGRAM A PERMANENT PROGRAM; APPROPRIATING MONEY FOR THE CURRENT FISCAL YEAR TO FUND EXPENDITURES AUTHORIZED BY THIS ACT; AMENDING ....

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON APPROPRIATIONS: 02/12/83
HEARING: 3/26/83
DIED IN COMMITTEE

HB 759 -- MENAHAN, KEENAN, HAFFEY, ET AL. -- APPROPRIATING MONEY TO THE DEPARTMENT OF INSTITUTIONS FOR AN INCREASE OF 25 IN THE AVERAGE DAILY POPULATION OF THE WARM SPRINGS STATE HOSPITAL; PROVIDING FOR A REVERSION OF FUNDING ON A PRO RATA BASIS.

INTRODUCED: 02/12/83
REFERRED TO COMMITTEE ON APPROPRIATIONS: 02/12/83

STATUS SH

TAXATION COMMITTEE

48th Legislature

ll No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
B 747	AN ACT CLARIFYING ADMIN. & RPTG. REQUIREMENTS RELATED TO THE PRIVILEGE TAX FOR POSSESSION OR BENEFICIAL USE BY A PRVT., INDIV., ASSOC., OR CORP. OF PROPERTY WHICH IS EXEMPT.....	2-12-83	Marks	3-1-83	AND AS AMENDED DO PASS	3-12-83
B 750	AN ACT TO ESTBLSH. A NEW CLASS OF PROPERTY FOR TAXATION PURPOSES TO INCLUDE TRAILERS AND MBLE. HOMES, REGARDLESS OF SIZE, USED AS RESIDENCES.....	2-12-83	Dozier	2-21-83	AND AS AMENDED DO PASS	2-21-83
B 753	AN ACT TO REVISE THE DEFINITION OF BUSINESSES THAT QUALIFY FOR PROPERTY TAX RATE REDUCTIONS FOR IMPROVEMENTS TO REAL AND PERSONAL PROPERTY.....	2-12-83	Shontz	3-1-83	DO NOT PASS	3-4-83
B 755	AN ACT PROVIDING A CREDIT AGNST. INDIV. PARTNRSP., SMALL BUS. CORP., OR CORP. INCOME TAX LIAB. FOR CAPITAL EXPEND. FOR COMMRCL. SYSTEMS THAT GENERATE ELEC. BY MEANS OF WIND POWER.....	3-4-83	Yardley	3-15-83	TABLED AND AS AMENDED DO PASS	3-21-83 3-23-83
B 766	AN ACT ALLOWING THE DEPT. OF REVENUE TO EMPLOY A QUALIFIED INDEPENDENT APPRAISER FOR CENTRALLY ASSESSED PROP. WHEN THE OWNER OF SUCH PROP. & THE DEPT. AGREE ON AN APPRAISER...	2-12-83	Asay	2-21-83	DO PASS	2-21-83
B 779	AN ACT EXEMPTING LIGHT UTILITY & BOAT TRLRS. FROM TAXATION AND IMPOSING A FEE IN LIEU OF TAX.....	2-14-83	Harp	3-2-83	AND AS AMENDED DO PASS	3-9-83

rm CS-32
81

004

House BILL NO. 755

INTRODUCED BY Hadley Metcalf McCulloch Selvig

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST INDIVIDUAL PARTNERSHIP, SMALL BUSINESS CORPORATION, OR CORPORATE INCOME TAX LIABILITY FOR CAPITAL EXPENDITURES FOR COMMERCIAL SYSTEMS THAT GENERATE ELECTRICITY BY MEANS OF WIND POWER; PROVIDING FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose and statement of policy. The purpose of [this act] is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. Because of the wind energy potential within the state, it is desirable to encourage wind energy generation for the purpose of attracting wind energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure wind-generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to a wind energy industry without subtracting from existing sources of revenue to the state.

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Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with

HB 755

existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Section 3. Limitation on credit. Whenever any federal wind energy tax credits for a system that generates electricity by means of wind power are allowed or allowable under section 48(l) of the Internal Revenue Code or any other federal law, the state credit allowed by [section 2] must be reduced by the amount of federal credits so that the effective credit does not exceed 60% of the eligible costs, notwithstanding the carryover provision of [section 4].

Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from the taxpayer's tax liability for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no credit may be

carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162 and 15-31-123, may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

Section 6. Separation of credit portion. In the case of a business, a portion of which qualifies for the credit pursuant to [section 2] and a portion of which does not qualify for the credit, taxes due from each portion must be separated by using the three-factor formula provided in 15-31-305.

Section 7. Rules authorized. The department of revenue is authorized to adopt rules to implement [this act]. The purpose of such rules must be to insure the following:

(1) proper and efficient administration of [this act];

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity

in the state as described in [section 2].

Section 8. Applicability. This act is applicable for tax years beginning after December 31, 1983.

-End-

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STATE OF MONTANA

REQUEST NO. 423-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 755 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 755 provides a credit against individual partnership, small business corporation, or corporate income tax liability for capital expenditures for commercial systems that generate electricity by means of wind power; provides for limitation on and carryover of the credit; and provides an applicability date.

FISCAL IMPACT:

No existing facilities will be eligible for the tax credit created by this bill, therefore, no erosion of the present tax base will be produced. Assuming the bill is successful in attracting industry that would not locate in the state without the credit, no real loss of revenue will be forthcoming. The bill will only forestall tax collections from income produced by these investments.

FISCAL NOTE 14:B/1

David M. Lewis

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: 2-16-83

008

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
March 15, 1983

The meeting was called to order at 8:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present except Representatives Abrams, Harp and Nordtvedt, who were excused. Representatives Abrams and Harp came into the meeting later.

Testimony was heard on HB 755, HB 867, HB 868 and HB 869.

Executive action was taken on HB 11, HB 890, SB 185 and SB 247.

CHAIRMAN YARDLEY said the sponsor of HB 867, HB 868 and HB 869 requested he be able to speak on all three bills together because they relate to the same subject.

HOUSE BILLS 867, 868 and 869

REPRESENTATIVE JAY FABREGA, District 44, sponsor of the bills, said the bills are identical in concept. The bills were introduced as a spin-off on HB 70 which would have allowed a 30% credit for wind products. House Bill 70 had a fiscal note of over $100 million.

HOUSE BILL 867 allows a 35% credit against income tax for investment in the manufacture of energy conservation products. There is no fiscal note because a credit would be given for something that does not exist now. The profits from the new operation would be used to offset the credit. Representative Fabrega said this is an industry that would stand a good chance of getting a number of manufacturing plants, of those products, in the near future.

HOUSE BILL 868 would allow a credit against income tax liability for investments in the manufacture of renewable energy equipment. This would be a 35% credit.

HOUSE BILL 869 would allow a credit against income tax liability for investments in the manufacture of energy-efficient, minimally polluting wood heaters. The credit, again, would be 35%.

Proponents

JOHN LOPACH, Executive Director of the Economic Growth Council, said they support all three bills. He said they also agree with the Department of Revenue in that when we can find ways to pinpoint use of investment credits for specific industries, it is an opportunity we should not miss. Mr. Lopach said they also support HB 252, the general investment credit.

REPRESENTATIVE REAM said we would give tax incentives to companies coming into Montana but not for companies already in business in Montana unless they expand their business. Representative Fabrega said that is correct because the purpose of the bills is to create jobs and capture alternative energy resources.

REPRESENTATIVE REAM asked if the sponsor would consider amending the language in the bill that says "nonpolluting" and inserting "low emission" because there is no such thing as nonpolluting. Representative Fabrega referred that question to Mr. McNairy. Mr. McNairy said he would have no problem with that amendment.

The hearing was closed on HB 867, HB 868 and HB 869.

VICE-CHAIRMAN NEUMAN took over as chairman of the meeting at this time.

HOUSE BILL 755

REPRESENTATIVE DAN YARDLEY, District 74, chief sponsor of the bill, said the idea for the bill was proposed by John Driscoll, Montana Power Company. This credit is not an investment for a tax shelter, it has to be related to income. The purpose of this act is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. House Bill 755 is an act providing a credit against individual partnership, small business corporation, or corporate income tax liability for capital expenditures for commercial systems that generate electricity by means of wind power.

REPRESENTATIVE YARDLEY said HB 755 includes many of the same issues included in HB 867, HB 868 and HB 869. There must be a minimum investment of $5,000 in a commercial system located in Montana which generates electricity by means of wind power. That investor is then eligible to an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

1. Manufacturing plants located in Montana that produce wind energy generating equipment;

2. A new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

3. The wind energy generating equipment in which the investment for which a credit is being claimed was made.

REPRESENTATIVE YARDLEY said no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Proponents

ED STEARN, representing the City of Livingston, said HB 755 is not an energy bill, per se. It is an economic development bill. The City of Livingston has documented interest from large groups and small groups who would like to use the Livingston area for development of wind energy. A lot of this initiative has come from the Livingston area but applicability is widespread. This is not a bill with one area in mind. He said HB 755 has an applicability date of 1984 but asked this committee to consider amending that date and having this act effective upon passage and approval of the bill. There is a chance the federal energy tax credit may expire in 1985. Mr. Stearn asked that the committee act favorably on HB 755.

JOHN LOPACH, Executive Director of the Economic Growth Council, said they support HB 755. There are not that many kinds of manufacturing firms that can locate in the state of Montana, those who can should be encouraged to do so. Mr. Lopach said Montana Power must buy electricity at a higher rate than the industry pays for it.

DON REED, representing the Montana Environmental Information Center, said HB 755 is cost effective and does not provide tax shelters for those people with large incomes. Mr. Reed said there are three main reasons for passing this bill:

1. Choice of wind for job creation is a wise one.

2. A credit like this would attract businesses to Montana.

3. It enhances the value of existing hydropower.

JIM MCNAIRY, representing the Alternative Energy Resources Organization, said the organization he represents would like to go on record in support of this bill for reasons state before.

REPRESENTATIVE JAY FABREGA said this credit, as with the credits in HB 867, HB 868 and HB 869, applies to individuals, partnerships, small business corporations or regular corporations. He urged a do pass on HB 755.

DAN BUCKS, Deputy Director of the Department of Revenue, said his comments made on the previous three bills are also relevant to this bill, as well. There will be no loss of revenue from this bill because it would be a foregoing of taxes from any future businesses. Mr. Bucks said there is a difference between HB 755 and the previous bills heard today, in terms of the concept of allowing the credit to be claimed against the taxes

due by a new direct sales contract customer that is purchasing electricity from the generating facility. The department interprets the bill, as drafted, as being new business activity within the state of Montana that is purchasing the electricity. The department would draft rules, suggesting the credit be allowed only against taxes due as a consequence of new economic activity in the state, limited to new facilities directly in Montana. He said that is not clear and asked this committee to address that issue.

MR. STEARN said he restricted his remarks to job potential as a result of the passage of HB 755. This bill is also an energy stimulation bill.

MR. BUCKS passed out copies of amendments to HB 755. He said they are the same type of amendments as what was offered on the previous three bills heard today. (See EXHIBIT 2.)

REPRESENTATIVE WILLIAMS asked if this bill would provide a credit on reconstruction of equipment that continually falls apart. Mr. Bucks referred to Section 7, subsection 3, of the bill, and said that could be interpretted that the repair of old equipment does not qualify.

REPRESENTATIVE HARP was present at the meeting at this time.

REPRESENTATIVE SWITZER asked if there is a generating facility that is actually functioning now in Livingston. Mr. Stearn said the wind farm has been operating flawlessly since December. There had been repairs on the equipment before December, but since December there has been no repairs. Mr. Stearn said they are very close to being an industrial facility with very little maintenance.

REPRESENTATIVE BERTELSEN asked how these facilities will be assessed. Mr. Bucks said it depends on the nature of the facility. If the facility is wholly contained in a county and hooked up to a transmission line in that county, the facility would be assesse at the county level. If the facility is a multi-county facility, had a new transmission line and crossed county lines, it would be centrally assessed through the Helena office.

REPRESENTATIVE YARDLEY, in closing, said California has a farm of 400 windmills and part of that might be attributed to the tax credit offered in California. He said this is a new field. It is experimental but it is economically feasible. He urged the committee's support of the bill.

The hearing on HB 755 was closed.

REPRESENTATIVE YARDLEY took over as chairman of the meeting again.

EXHIBIT 2
3-15-83

Proposed Amendments H.B. 755

Page 4, line 6

Following: "allowed by 15-30-162"

Delete: "and"

Insert: ","

Page 4, line 7

Following: "15-31-123,"

Insert: "15-31-124, 15-31-125 and (the credits provided by SB 241)

Proposed Amendments H.B. 755

Page 2, line 4

Following: "more in".

Insert: "certain depreciable property qualifying under section 38 of the Internal Revenue Code of 1954, as amended, for"

Page 2, line 21

Following: "those"

Insert: "expenditures that qualify under section 38 of the Internal Revenue Code of 1954, as amended, and that are"

WITNESS STATEMENT

Name ED STERN Committee On TAXATION

Address 414 E. CALLENDER Date 3/15/83

Representing CITY OF LIVINGSTON Support X

Bill No. HB 755 Oppose

Amend effective on passage

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. JOB CREATION

2. ENERGY STABALIZATION

3. NO COST TO STATE

4. BROADEN BASE INDUSTRY IN STATE

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

VISITORS' REGISTER

HOUSE Taxation COMMITTEE

BILL HB 755 Date 3-15-83

SPONSOR Rep. Yardley

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Don Reed	Helena	MEIC	✓	
Jim Lopach	Great Falls	Economic Growth Council	✓	
[illegible]	[illegible]	AFBF	✓	
ED STERN	LIVINGSTON	CITY OF LIVINGSTON	✓	
Don Bucks		Dept. of Rev	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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Form CS-33
1-81

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
March 21, 1983

The meeting was called to order at 8:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present except Representatives Dozier, Harrington and Nordtvedt, who came in later in the meeting.

Executive action was taken on the following bills: HJR 33; House Bills 354, 648, 739, 740, 755, 867, 868, and 869; and Senate Bills 241, 252, 264, 283, 414, and 459.

EXECUTIVE SESSION

House Joint Resolution 33

REPRESENTATIVE MEL WILLIAMS, who was chairman of the Taxation Subcommittee on HJR 33, told committee members that the subcommittee held two meetings on March 19, 1983, and went over the revenue figures with the Office of Budget and Program Planning and the Office of the Legislative Fiscal Analyst. There were five main areas of revenue that the subcommittee asked the OBPP and LFA to recompute their figures on:

1. Interest on Investments - The two offices were asked to recalculate their figures, using the LFA interest figure of 10% and the OBPP monthly cash balance estimate of $264 million. After refiguring, OBPP decreased their amount from $78.6 million to approximately $61.1 million. The LFA increased their amount from $52 million to $61 million.

2. Oil Severance Tax - There was a $9 million difference between the OBPP and LFA figures. The subcommittee asked the two offices to recalculate using OBPP production figures of 2% and LFA price per barrel of $25.00. The new figures given are $84.9 for OBPP and $85.5 for LFA.

3. Coal Severance Tax - There was a $2 million difference between the two offices' figures. The two offices had been given figures from Western Energy Company that were 4 million tons apart. (The figure given to OBPP was 4 million tons higher than that given to LFA.) The subcommittee asked the two offices to split the difference in the estimates.

REPRESENTATIVE NORDTVEDT moved to TABLE HB 739.

The motion was voted on and PASSED. A roll call vote was taken and all committee members voted yes except Representatives Dozier, Harrington, Keenan, Nilson, Ream, Williams, Zabrocki and Yardley, who voted no.

REPRESENTATIVE WILLIAMS moved that this committee make a recommendation to the House to suspend the rules to introduce a committee bill to repeal the small business investment tax credit.

The motion was voted on and PASSED. All committee members voted yes except Representatives Bertelsen, Harrington, Nordtvedt, Switzer, Vinger and Zabrocki, who voted no.

REPRESENTATIVE NORDTVEDT said he would like to take a straw vote to see if we have the votes in committee to table all the tax credit bills.

REPRESENTATIVE JACOBSEN said he would like to have individual votes on bills that do not have a fiscal impact from the credit.

REPRESENTATIVE DEVLIN said most fiscal notes say they have no prior data to base the fiscal impact on, but if the bill is a credit, there will always be a fiscal impact.

REPRESENTATIVE WILLIAMS said historically we have given credits to new businesses coming into Montana and that has made no effect on Montana's economy. We are trying to improve the economy of Montana. If businesses are interested in getting started in Montana, they will do it. This is just a subsidy program.

CHAIRMAN YARDLEY said HB 755, HB 867, HB 868, and HB 869 are a result of HB 70. It was thought Montana was not competing with California and their tax credits. In California, you can invest and get a tax credit on other income. With these bills, you have to have a profit in your business in order to get a tax credit. You cannot offset income.

REPRESENTATIVE DOZIER said that is the only type of credit he would support.

House Bill 755

REPRESENTATIVE ZABROCKI moved HB 755 DO PASS.

REPRESENTATIVE NORDTVEDT said he opposes the motion. All of the bills (HB 755, 867, 868, and 869) are down the road to government management of the economy.

REPRESENTATIVE REAM said they do represent, to some extent, government intrusion but when we are talking about energy, the government

has subsidized energy related facilities. These credits are a way of decentralizing and getting the power back to the people who are more directly involved. This brings it closer to the consumer.

REPRESENTATIVE WILLIAMS said the energy crunch is not what it was some time ago. He said he doesn't feel we can use the shortage of energy as an argument.

CHAIRMAN YARDLEY said this is not a tax shelter type credit.

The motion of DO PASS was voted on and FAILED. A roll call vote was taken and all committee members voted no except Representatives Dozier, Harrington, Jacobsen, Keenan, Ream, Yardley and Zabrocki, who voted yes.

REPRESENTATIVE DEVLIN moved to TABLE HB 755. He said when this committee gets more information from the Appropriations Committee we will have a better idea as to what bills we can finance and what bills we can't.

The motion was voted on and PASSED. All committee members voted yes except Representatives Dozier, Harrington, Keenan, Ream, Williams, Zabrocki and Yardley, who voted no.

House Bill 867

REPRESENTATIVE NORDTVEDT moved to TABLE HB 867.

The motion was voted on and PASSED. All committee members voted yes except Representatives Dozier, Harrington, Keenan, Ream and Yardley, who voted no.

House Bill 868

REPRESENTATIVE NORDTVEDT moved to TABLE HB 868.

The motion was voted on and PASSED. All committee members voted yes except Representatives Dozier, Harrington, Keenan, Ream and Yardley, who voted no.

House Bill 869

REPRESENTATIVE SWITZER moved to TABLE HB 869.

The motion was voted on and PASSED. All committee members voted yes except Representatives Dozier, Harrington, Keenan, Ream and Yardley, who voted no.

Senate Bill 241

REPRESENTATIVE ZABROCKI moved SB 241 BE CONCURRED IN.

REPRESENTATIVE NORDTVEDT made a substitute motion to TABLE SB 241.

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
March 23, 1983

The meeting was called to order at 8:00 a.m. by Chairman Yardley. Roll call was taken and all committee members were present except Representatives Abrams, Neuman and Nordtvedt, who were excused.

Testimony was heard on HB 913 and HB 915.

Executive action was taken on HB 755, HB 829, SB 335 and HJR 31.

HOUSE BILL 913

REPRESENTATIVE HAL HARPER, District 30, sponsor of the bill, said HB 913 is an act providing for a replacement income tax for part of the property tax now levied on habitable property. He said it is the latest version of the "Watt proposal" to reduce/replace property taxes and replace them with a tax on income. Representative Harper said this idea has been around before. The measure has always passed the House but has been killed in the Senate.

REPRESENTATIVE HARPER went over the bill with the committee. He offered some amendments to the bill. On page 2, line 18, he suggested striking "part or" so that the governing body of a county could not replace those mills. On page 6, line 8, he suggested striking "gross income" and inserting "taxable income".

Proponents

BOB WATT, originator of the concept of HB 913, said he started working on this concept in 1969. He said HB 913 is a far simpler bill than the bill he had drafted when he was a legislator. Mr. Watt said HB 913 is a permissive bill, it doesn't force counties to go with this idea, the decision would be up to the county commissioners.

TOM RYAN, representing the Montana Senior Citizens Association, said the MSCA passed a broad resolution in their convention that said they would support progressive legislation. Mr. Ryan said he thought this piece of legislation is progressive so, therefore, MSCA supports the bill.

SAM RYAN, a member of the Montana Senior Citizens Association, said he is in favor of the bill.

BOB PALMER, Missoula County Commissioner, said he was testifying on behalf of himself and not for Missoula County. Mr. Palmer said this bill would allow local government officials the opportunity to provide property tax relief to property owners of Montana.

House Bill 755

CHAIRMAN YARDLEY said he would like this committee to reconsider previous action on HB 755.

REPRESENTATIVE BERTELSEN moved to RECONSIDER PREVIOUS ACTION ON HB 755. He said we have a good potential with wind power in Montana and we should go with it.

REPRESENTATIVE DOZIER said he supports the bill because the companies have to show a profit before they get a tax credit.

The motion was voted on and PASSED unanimously.

REPRESENTATIVE BERTELSEN moved HB 755 DO PASS.

CHAIRMAN YARDLEY offered amendments to HB 755. (See EXHIBITS 18 and 19.) He asked Mr. Oppedahl to explain the amendments. Mr. Oppedahl said the first amendments bring in two corporation tax laws and the second amendments adress the issues of repairs.

REPRESENTATIVE HARP moved the proposed amendments to HB 755.

The motion was voted on and PASSED unanimously.

The motion was HB 755 DO PASS, AS AMENDED, was voted on and PASSED unanimously.

House Bill 704

CHAIRMAN YARDLEY said the Senate will accept HB 704 after the 70th legislative day, if it is moved out of the Taxation Committee. He said it was a "gentlemen's agreement".

House Joint Resolution 31

REPRESENTATIVE WILLIAMS asked this committee to pass this resolution out. After the House has taken action on the resolution, there would be a joint meeting between the Revenue Oversight Committee and members of the Taxation Committee to solidify a plan to be presented to the Senate.

REPRESENTATIVE WILLIAMS moved a DO PASS on HJR 31.

The motion was voted on and PASSED unanimously.

House Bill 829

CHAIRMAN YARDLEY said the sponsor of the bill asked that this bill be tabled in committee.

EXHIBIT 18
3-23-83

Proposed Amendments H.B. 755

Page 2, line 4

Following: "more in".

Insert: "certain depreciable property qualifying under section 38 of the Internal Revenue Code of 1954, as amended, for"

Page 2, line 21

Following: "those"

Insert: "expenditures that qualify under section 38 of the Internal Revenue Code of 1954, as amended, and that are"

EXHIBIT 19
3-23-83

Proposed Amendments H.B. 755

Page 4, line 6

Following: "allowed by 15-30-162"

Delete: "and"

Insert: ","

Page 4, line 7

Following: "15-31-123,"

Insert: "15-31-124, 15-31-125 and (the credits provided by SB 241)

STANDING COMMITTEE REPORT

March 23, 1983

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 755

First reading copy (White color)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST INDIVIDUAL PARTNERSHIP, SMALL BUSINESS CORPORATION, OR CORPORATE INCOME TAX LIABILITY FOR CAPITAL EXPENDITURES FOR COMMERCIAL SYSTEMS THAT GENERATE ELECTRICITY BY MEANS OF WIND POWER; PROVIDING FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; AND PROVIDING AN APPLICABILITY DATE."

Respectfully report as follows: That HOUSE Bill No. 755

be amended as follows:

1. Page 2, line 4.
Following: "in"
Insert: "certain depreciable property qualifying under section 38 of the Internal Revenue Code of 1954, as amended, for"

2. Page 2, line 21.
Following: "those"
Insert: "expenditures that qualify under section 38 of the Internal Revenue Code of 1954, as amended, and that are"

3. Page 4, line 6.
Following: "15-30-162"
Strike: "and"
Insert: ","

~~XXXXX~~
~~DO NOT USE~~

DAN YARDLEY, Chairman.

COMMITTEE SECRETARY

STATE PUB. CO.
Helena, Mont.

4. Page 4, line 7.
Following: "15-31-123"
Insert: "through 15-31-125 [and the credits provided in SB 241]

5. Page 5, line 2.

Following: line 1
Insert: "Section 8. Coordination instruction. If Senate Bill No. 241 is not passed and approved, the bracketed language in section 5 is deleted from this act."
Renumber: subsequent section

AND AS AMENDED
DO PASS

DAN YARDLEY, Chairman.

STATE PUB. CO.
Helena, Mont.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Representative Vincent moved that the House resolve itself into a Committee of the Whole, for the consideration of business on second reading. Motion carried. Representative Metcalf in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

Representatives Addy, Bardanouve, Bliss, Brand, Driscoll, Hammond, Hand, Harper, Holliday, McCormick, Menahan, Ryan, and Shontz excused at this time.

HB 418 - That HB 418, second reading copy, be amended as follows:

1. Page 3, line 9.
Following: "tax"
Insert: ", not to exceed $42,000,000 for the biennium ending June 30, 1985,"

Amendment passed as follows:

Ayes: Abrams, Asay, Bengtson, Bertelsen, Compton, Connelly, Curtiss, Devlin, Donaldson, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Hannah, Hanson, Harrington, Hemstad, Iverson, Jacobsen, Jones, Kemmis, Keyser, Kitselman, Lory, Marks, Miller, Mueller, O'Connell, Peck, Phillips, Pistoria, Ramirez, Ream, Sales, Sands, Schultz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Vinger, Wallin, Winslow.
Total 47

Noes: Bachini, D. Brown, J. Brown, Daily, Darko, Dozier, Farris, Hansen, Hart, Howe, J. Jensen, R. Jensen, Kadas, Keenan, Kennerly, Koehnke, Lybeck, McBride, Manuel, Metcalf, Neuman, Nilson, Nisbet, Pavlovich, Quilici, Roush, Saunders, Schye, Veleber, Vincent, Waldron, Williams, Yardley, Zabrocki.
Total 34

Excused: Addy, Bardanouve, Bergene, Bliss, Brand, Driscoll, Hammond, Hand, Harper, Holliday, McCormick, Menahan, Nordtvedt, Ryan, Seifert, Shontz.
Total 16

Absent or not voting: Fagg, Harp, Underdal.
Total 3

Representatives Bardanouve, Bliss, Driscoll, Hammond, Hand, Harper, Holliday, and Menahan present at this time.

Representatives Bachini, Pistoria, Thoft, and Winslow excused at this time.

That HB 418, as amended, do pass. Motion carried as follows:

Ayes: Abrams, Asay, Bardanouve, Bengtson, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Koehnke, Lory, Lybeck, McBride, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Quilici, Ramirez, Ream, Roush, Ryan, Saunders, Schultz, Schye, Solberg, Spaeth, Stobie, Switzer, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Yardley, Zabrocki.

Total 79

Noes: Ellerd, Hannah, Kitselman, Marks, Sales, Sands, Smith, Swift, Underdal.
Total 9

Excused: Addy, Bachini, Bergene, Brand, McCormick, Nordtvedt, Pistoria, Seifert, Shontz, Thoft, Winslow.
Total 11

Absent or not voting: Hansen.
Total 1

SB 21 - Representative Vincent moved that SB 21 be placed at the top of the board. Motion carried.

Representatives Addy, Bachini, McCormick, Pistoria, Thoft, and Winslow present at this time.

Representatives Ernst, Manuel, O'Connell, and Wallin excused at this time.

Representative Hansen moved that SB 21 be concurred in. Representative Kadas made a substitute motion that SB 21 be passed to the bottom of the board. The substitute motion carried.

HB 435 - That HB 435 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Williams, Winslow, Yardley, Zabrocki.
Total 91

Noes: None.
Total 0

Excused: Bergene, Brand, Ernst, Manuel, Nordtvedt, O'Connell, Seifert, Shontz, Wallin.
Total 9

Absent or not voting: None.
Total 0

Representatives Bardanouve, Pistoria, and Waldron excused at this time.

Representatives Bergene, Ernst, Manuel, and O'Connell present at this time.

HB 755 - That HB 755 do pass. Motion carried as follows:

Ayes: Addy, Asay, Bachini, Bengtson, Bergene, Bertelsen, Bliss, D. Brown, J. Brown, Connelly, Daily, Darko, Devlin, Dozier, Driscoll, Ellison, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Jacobsen, J. Jensen, Kadas,

020

Keenan, Kemmis, Kennerly, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Quilici, Ramirez, Ream, Sands, Saunders, Schye, Swift, Switzer, Veleber, Vincent, Williams, Yardley, Zabrocki.
Total 66

Noes: Abrams, Compton, Curtiss, Donaldson, Ellerd, Ernst, Hannah, Hanson, Iverson, R. Jensen, Jones, Keyser, Kitselman, Mueller, Roush, Ryan, Sales, Schultz, Smith, Solberg, Spaeth, Stobie, Thoft, Underdal, Winslow.
Total 25

Excused: Bardanouve, Brand, Nordtvedt, Pistoria, Seifert, Shontz, Waldron, Wallin.
Total 8

Absent or not voting: Vinger.
Total 1

Representatives Brand, Shontz, and Waldron present at this time.

HB 841 - That HB 841 do pass. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bengtson, Bergene, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Quilici, Ream, Roush, Ryan, Sands, Saunders, Schultz, Schye, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Williams, Winslow, Zabrocki.
Total 85

Noes: Bertelsen, Bliss, Eudaily, Fabrega, Lory, Ramirez, Sales, Waldron, Yardley.
Total 9

Excused: Bardanouve, Nordtvedt, Pistoria, Seifert, Wallin.
Total 5

Absent or not voting: Harrington.
Total 1

Representative Waldron excused at this time.

HB 893 - That HB 893, second reading copy, be amended as follows:

1. Page 20, line 11.
Following: "(G)"
Insert: "if"

2. Page 20, line 12.
Following: "(H)"
Insert: "if"
Strike: "NOT"

Amendment passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko,

Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Williams, Winslow, Zabrocki.
Total 91

Noes: None.
Total 0

Excused: Bardanouve, Nordtvedt, Pistoria, Seifert, Waldron, Wallin.
Total 6

Absent or not voting: Keyser, Marks, Yardley.
Total 3

Representative Waldron present at this time.

Representatives Connelly, Hammond, Ryan, and Stobie excused at this time.

That HB 893, second reading copy, be further amended as follows:

1. Page 15, line 8.
Following: "transfer"
Insert: ", and an environmental impact statement has been completed under subsection (6) and submitted to the legislature for its review"

2. Page 15, lines 9 through 14.
Strike: subsection (8) in its entirety

Amendment passed as follows:

Ayes: Abrams, Asay, Bengtson, Bergene, Bertelsen, Bliss, D. Brown, J. Brown, Compton, Curtiss, Daily, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Hand, Hannah, Hansen, Harp, Harrington, Hart, Hemstad, Holliday, Iverson, Jacobsen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lybeck, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Quilici, Ramirez, Roush, Sales, Sands, Schultz, Shontz, Smith, Solberg, Spaeth, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Williams, Winslow, Yardley.
Total 74

Noes: Addy, Bachini, Brand, Darko, Farris, Hanson, Harper, Howe, J. Jensen, Lory, McBride, Neuman, Ream, Saunders, Schye, Zabrocki.
Total 16

Excused: Bardanouve, Connelly, Hammond, Nordtvedt, Pistoria, Ryan, Seifert, Stobie, Wallin.
Total 9

Absent or not voting: Fagg.
Total 1

Representatives Bardanouve, Connelly, Hammond, and Stobie present at this time.

Total 21

Excused: Fabrega, Nilson.
Total 2

Absent or not voting: Bardanouve, Hemstad, Kadas, Kemmis, Keyser, McCormick, Manuel, Nordtvedt, Schye.
Total 9

That SB 21, as amended, be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Connelly, Daily, Dozier, Driscoll, Eudaily, Fagg, Farris, Hammond, Hand, Hansen, Harper, Harrington, Hart, Holliday, Howe, Iverson, J. Jensen, Kadas, Keenan, Kemmis, Kennerly, Koehnke, Lory, Lybeck, McBride, McCormick, Menahan, Metcalf, Miller, Neuman, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ream, Roush, Sands, Saunders, Schye, Shontz, Spaeth, Veleber, Vincent, Vinger, Waldron, Williams, Winslow, Yardley, Zabrocki.
Total 63

Noes: Compton, Curtiss, Devlin, Donaldson, Ellerd, Ellison, Ernst, Hannah, Hanson, Harp, Jacobsen, R. Jensen, Jones, Kitselman, Marks, Mueller, Ramirez, Ryan, Sales, Schultz, Seifert, Smith, Solberg, Stobie, Swift, Switzer, Thoft, Underdal, Wallin.
Total 29

Excused: Fabrega, Nilson.
Total 2

Absent or not voting: Bardanouve, Darko, Hemstad, Keyser, Manuel, Nordtvedt.
Total 6

Representative Vincent moved that the committee rise and report and beg leave to sit again. Motion carried. Committee arose. House resumed. Mr. Speaker in the Chair. Chairman Brand moved that the committee of the whole report be deemed read. Motion carried. Chairman Brand moved the adoption of the committee report. Report adopted. (88-4)

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 418 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellison, Ernst, Eudaily, Farris, Hammond, Hand, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Koehnke, Lory, Lybeck, McBride, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Thoft, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 84

Noes: Compton, Ellerd, Fagg, Hannah, Kitselman, McCormick, Marks, Sales, Sands, Swift, Switzer, Underdal.
Total 12

028

Excused: Fabrega, Nilson.
Total 2

Absent or not voting: Bardanouve, Nordtvedt.
Total 2

HB 435 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellison, Ernst, Eudaily, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 93

Noes: Ellerd, R. Jensen, McCormick, Switzer.
Total 4

Excused: Fabrega, Nilson.
Total 2

Absent or not voting: Nordtvedt.
Total 1

HB 755 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Brand, D. Brown, J. Brown, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellison, Ernst, Eudaily, Fagg, Farris, Hammond, Hand, Hansen, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Neuman, Nisbet, O'Connell, Pavlovich, Peck, Pistoria, Quilici, Ramirez, Ream, Sands, Saunders, Schultz, Schye, Seifert, Solberg, Spaeth, Swift, Switzer, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 80

Noes: Bliss, Compton, Ellerd, Hannah, Hanson, R. Jensen, Jones, Mueller, Phillips, Roush, Ryan, Sales, Shontz, Smith, Stobie, Thoft, Underdal.
Total 17

Excused: Fabrega, Nilson.
Total 2

Absent or not voting: Nordtvedt.
Total 1

HB 841 passed as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bengtson, Bergene, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ernst, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, McBride, McCormick,

FORTY-EIGHTH LEGISLATIVE SESSION

COMMITTEE ON TAXATION (SENATE)

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
730	3/2/83	3/10/83	3/17/83					3/17/83	
739	3/28/83	3/31/83	4/12/83					4/11/83	
740	3/28/83	4/5/83		Tabled on 4/11/83					
742	3/1/83	3/11/83	3/25/83	Tabled on 3/15/83; taken given BE CONCURRED IN AS			off table and reconsidered on 3/24/83; AMENDED on 3/24/83.		
747	3/23/83	3/25/83	3/29/83					3/29/83	
750	3/2/83	3/7/83	3/23/83	Tabled on 3/15/83; moved on 3/21/83; given BE CONC			to take from table and reconsider URRED IN AS AMENDED on 3/22/83.		
755	4/5/83	4/7/83	4/14/83					4/14/83	
766	3/2/83	3/11/83	3/15/83				3/15/83		
779	3/16/83	3/21/83		Tabled on 3/22/83					
780	3/16/83	3/21/83	4/8/83					4/7/83	
841	4/5/83	4/7/83	4/12/83	Tabled on 4/11/83; taken on 4/12/83.			from committee to second reading		
858	3/28/83	4/1/83	4/1/83				4/1/83		
870	3/21/83	3/24/83	3/29/83					3/29/83	
890	3/25/83	3/31/83	4/12/83					4/12/83	
923	4/14/83	4/14/83	4/14/83				4/14/83		
925	4/12/83	4/14/83		Tabled on 4/14/83					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

(NOTE: These sheets indicate the status of the bills heard from time to time; the attached index indicates all of the dates on which the respective bills were discussed.

HOUSE BILL NO. 755

INTRODUCED BY YARDLEY, FABREGA, METCALF, MCBRIDE, SCHYE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST INDIVIDUAL PARTNERSHIP, SMALL BUSINESS CORPORATION, OR CORPORATE INCOME TAX LIABILITY FOR CAPITAL EXPENDITURES FOR COMMERCIAL SYSTEMS THAT GENERATE ELECTRICITY BY MEANS OF WIND POWER; PROVIDING FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose and statement of policy. The purpose of [this act] is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. Because of the wind energy potential within the state, it is desirable to encourage wind energy generation for the purpose of attracting wind energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure wind-generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to a wind energy industry without subtracting from existing sources of revenue to the state.

Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in CERTAIN DEPRECIABLE PROPERTY QUALIFYING UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, FOR a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those EXPENDITURES THAT QUALIFY UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, AND THAT ARE associated with the purchase, installation, or

THIRD READING

upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Section 3. Limitation on credit. Whenever any federal wind energy tax credits for a system that generates electricity by means of wind power are allowed or allowable under section 48(1) of the Internal Revenue Code or any other federal law, the state credit allowed by [section 2] must be reduced by the amount of federal credits so that the effective credit does not exceed 60% of the eligible costs, notwithstanding the carryover provision of [section 4].

Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from the taxpayer's tax liability for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the

tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability. However, no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162, and 15-31-123 THROUGH 15-31-125, [AND THE CREDITS PROVIDED IN SB 241], may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

Section 6. Separation of credit portion. In the case of a business, a portion of which qualifies for the credit pursuant to [section 2] and a portion of which does not qualify for the credit, taxes due from each portion must be separated by using the three-factor formula provided in 15-31-305.

Section 7. Rules authorized. The department of revenue is authorized to adopt rules to implement [this act]. The purpose of such rules must be to insure the following:

(1) proper and efficient administration of [this act];

031

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity in the state as described in [section 2].

SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 241 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE IN SECTION 5 IS DELETED FROM THIS ACT.

Section 9. Applicability. This act is applicable for tax years beginning after December 31, 1983.

-End-

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MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 7, 1983

The sixty-first meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 755: Representative Dan Yardley, House District 74, said California has solar and wind energy tax credits. They have a lot of development in wind farms. The major thought behind this bill is to provide a credit for capital expenditures for commercial systems that generate electricity by means of wind power. It encourages development in the area of wind power and won't be an impact on the budget. You can take the credit only if you are making a profit.

PROPONENTS

John Driscoll, a member of the Montana Public Service Commission, submitted a written packet (attached as Exhibit A) including recommendations of the Montana Public Service Commission concerning the marketing of federal firm surplus energy. Alumax and Stauffer Chemical Company could use some of the power not used (200 megawatts). Stauffer Chemical said 90% could be interrupted; Alumax said 33% of theirs could be interrupted. The 200 megawatts should be made available at a lower cost. If that is the way to solve the excess generation capacity problem, it would prevent litigation. There is a surplus of power available in the Northwest in the spring and summer months, and we have excellent cold weather wind sites in Montana (Table 2.3.6 of Exhibit A). Under this bill, if Alumax, Stauffer, or Arco wants the resource and wants it wheeled over the lines, they will make sure the manufacturing site is good. This could be good for economic development.

Ed Stearns, representing the city of Livingston, said their role is from the jobs development standpoint. Livingston has the second largest wind potential in the United States. Bendex, Boeing, General Electric, and Westinghouse are interested in that area. We have everything to gain by passing this bill. He submitted a copy of a letter from S. Charles Nicholson, Mayor of Livingston, dated January 6, 1983, addressed to Governor Ted Schwinden, which comments on the proposed Montana Wind Energy Commercial Investment Tax Credit. It is attached as Exhibit B and includes a cost comparison of different fuel types. Wind is the least expensive.

OPPONENTS

There were no opponents to the bill.

Questions from the committee were called for.

Senator Elliott wondered why we needed this if we have such a huge surplus of power already on the grid system. Mr. Driscoll said actually power is required to be purchased at cost or less than the cost of power from the coal-fired plants. HB 755 applies to large industry looking for ways to get energy without driving up everyone else's bills. They need a way to get the pre-commercial cost down to the production cost. From a long-run point of view, utility should be acquired from the least expensive mix of resources. We should work out a good contract with California and bill the excess to them at a higher rate. The surplus we have is stopping conservation measures. We can't figure out how to get rid of the surplus.

Senator Towe asked what a megawatt of wind energy could be generated for. Mr. Driscoll said he did not have numbers; this just sets some general guidelines.

Senator Towe commented that the federal act requires that there be a market available to existing utility companies.

Mr. Driscoll said projects are from 5-10 megawatts. The initial cost is high, but when the cost drops down to $5 million, it is competitive.

Senator Towe asked Mr. Driscoll if section 2(2)(d) was meant to be all wind related and Mr. Driscoll responded affirmatively.

Representative Yardley said that in the case of manufacturing plants, the credit against tax liability would be on income because the plant produces the wind energy generating equipment.

Senator Towe thought "as set forth in [section 2(1)]" should be inserted after "liability" on page 3, line 22, to clarify what tax liability was being referred to.

Dan Bucks from the Department of Revenue said they had helped draft this bill. It was their impression that a retail business would have to engage in expansion or build a new facility to take advantage of the credit. He said we are talking about major industrial users here. Senator Towe's suggestion to refer to section 2(1) in section 4 (carryover of credit) is good; that affects timing.

Senator Towe also mentioned deleting line 19 on page 3 of the bill.

Senator Eck wondered what the possibility was of dealing with BPA without going through Montana Power Company. Mr. Stearns

thought there was a good possibility. We could wheel the energy to other places if it's not needed here. There would be a wheeling tariff associated with this. In 1978, all state regulatory commissions were required to establish the "avoided cost" for each jurisdictional utility in order to set a buy-back rate for renewable resources. That, and tariffs, are determined by law and are not open to negotiation.

Senator Eck stated that Montana Power Company was probably not willing to follow those regulations. Mr. Driscoll felt the answer was to find a market for the surplus. BPA is still in the study phase of wind energy resources.

Representative Yardley suggested the effective date be changed to immediately or to October 1, 1983, rather than December 31, 1983. It has to be economically feasible or it won't benefit the person seeking tax credit.

The hearing on HB 755 was closed.

CONSIDERATION OF HOUSE BILL 841: Representative Jerry Driscoll, House District 69, sponsored HB 841. He said he saw about 100 employee W-2s with gross incomes of $7,000 a year, including tip income. That is about $5,500 in wages and $1,000 to $1,500 in tips. They are not even in the 5% tax bracket. He questioned the accuracy of the fiscal note. Tips are not considered income in unemployment or workers' compensation claims. Now, each waitress must keep a ticket, and if she can prove she earned less, she can claim less income. He felt tip income should be exempted from income tax liability like tax refunds.

PROPONENTS

Frank Sullivan, Local 457, AFL-CIO, Butte, submitted written testimony, attached as Exhibit C.

Maragret Flanagan, Local 533, Helena, supported HB 841. This bill is needed for the people who work in these establishments (Exhibit D).

Mark Quick, Local 101, Great Falls, also testified in support of the bill.

Sandy Otten, a waitress at Jorgensons in Helena, said the IRS says they make 15% in tips. She provided an example: The other day, she said, they made $222.50 in tickets for two luncheons. The total tip left was $4.50--a 2% tip! Funk and Wagnall's dictionary defines tip as a gift given in money. The waitresses are being taxed on gifts, and that is unfair.

Bob Durkee, representing the Montana Tavern Association, supported the bill.

ROLL CALL

SENATE TAXATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 4/7 /83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

Senate Taxation Committee
Exhibit A
April 7, 1983
HB 755

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59601
Telephone: (406) 449-3018

January 21, 1983

Thomas J. Schneider, Commissioner
District 2

Mr. Daniel J. Evans, Chairman
Pacific Northwest Electric Power Planning
and Conservation Council
Central Office, United Carriage House
700 SW Taylor
Portland, Oregon, 97204

Dear Chairman Evans:

On November 29, 1982, the Bonneville Power Administration issued a request for recommendations concerning the marketing of federal firm surplus energy. Attached is a copy of the responding recommendations of the Montana Public Service Commission.

The concerns of the Montana Commission are evident from the attached comments, and are, essentially, that valuable and costly energy resources are being exported from the region at prices less than that which would result from a sound long-range policy.

In examining the delicate question of sales of regional energy supplies, it has become obvious to the Commission that it is an area which will require a cooperative regional approach. For that purpose we have attached the Montana Commission comments in hopes they will be considered by the Council in its efforts in developing a Regional Long-Range Energy plan.

Very truly yours,

Thomas J. Schneider,
Chairman

TJS:imb

Enclosure

PUBLIC SERVICE COMMISSION 1227 11th Avenue • Helena, Montana 59620
Telephone: (406) 449-3007 or 449-3303

ohn B. Bollinger, Chairman
t B. Driscoll
[illegible] Ellis
te Jarvis
mas J. Schneider

January 10, 1983

Mr. Pete Johnson, Administrator
Bonneville Power Adminstration
P.O. Box 12999
Portland, Oregon 97212

Dear Sir:

This letter is in response to BPA's November 29, 1982, request for recommendations concerning the marketing of firm surplus energy from the northwest.

The Montana Public Service Commission applauds the efforts of the Oregon PUC for the analysis and recommmendations on this subject. The Oregon PUC and Governor Atiyeh have played a vital role in generating and focusing regional discussion of this critical marketing issue. We trust this BPA solicitation of recommendations is a very positive move toward a regional resolution of the issue.

The basic principle for operating the regional power supply system must be to benefit the regional ratepayers. Given that premise, it should be obvious that firm off-region sales must reflect marginal cost principles. Furthermore, given the scheduled thermal plants contained in Table I of the BPA notice (Valmy #2, WNP #2, Colstrip #3 and #4, WNP #3, and WNP #1) which give rise to this surplus, it is ludicrous to ignore Long Run Incremental Cost principles in pricing firm off-region sales. To make firm off-region sales at prices that do not reflect either an appropriate LRIC calculation or the fixed plus variable cost (revenue requirement) of the most expensive regional power supplies is to assure that regional ratepayers or individual utility ratepayers subsidize off-region sales. The legitimate and cost based signal of off-region purchasers of firm surplus must be unambiguous--they are purchasing the regions marginal surplus not hydro electric power.

The Montana PSC recognizes that such a regional marketing strategy will require collective action and consent of the individual utilities and BPA. However, to ignore the opportunity and the necessity to act as a region in marketing the firm surplus is to perpetuate the price cutting short-run cost recovery mentality which serves the region so poorly. A regional sharing or

pooling of the benefits of this collective action, could be made in proportion to the firm surplus of the individual participants or in some other equitable manner. This regional marketing concept appears entirely consistent with the Regional Act which focuses on collective actions to obtain supply for the region.

The attached Comments and Recommendations of the Montana PSC develop these ideas more fully. The Montana PSC is prepared to meet with BPA, other state commissions and the Northwest Power Planning Council to pursue these critical issues.

Sincerely,

PUBLIC SERVICE COMMISSION

Thomas J. Schneider
Chairman

TJS/jmo

Attachment

The Montana PSC is deeply concerned that a short-run marketing strategy based upon variable costs will evolve. Such strategy would significantly understate the real costs to the region of firm power. The Montana PSC must only conclude that parties inclined to the short-run cost: (1) consider the present and near term thermal facilities as "sunk or unavoidable" costs which must be recovered from regional ratepayers, and (2) any price above variable costs is a benefit by making a "contribution" against these fixed costs. The Montana PSC urges that such assumptions are dangerous and we believe incorrect.

If firm surplus exists in the magnitudes which BPA has determined, then substantial excess capacity exists. State regulators and intervenors will surely be sensitive to this excess capacity issue and its effect upon the rates and risks borne by ratepayers. The Montana PSC has addressed this issue in a recent MDU rate case involving a new coal plant and excluded 40 percent of that plant as excess capacity not used and useful. A news article covering the District Court's affirmation of that order is attached.

A straight forward alternative to the issue of the utility versus ratepayer risk of excess capacity or firm surplus is purely a matter of pricing policy. Pricing firm of regional sales at LRIC or a level necessary to cover the full revenue requirement of the most expensive resources avoids this bitter issue in an economically rational manner to the benefit of the region.

LRIC RATIONALE

Each state regulatory commission (PUC) was required by Sec. 210 of the Public Utility Regulatory Policy Act of 1978 (PURPA) to establish the "avoided cost" for each jurisdictional utility in order to set a buy-back rate for renewable energy resources. The Montana Public Service Commission established such "full avoided cost" upon the basis of the LRIC of conventional coal fixed facilities. The costs of Colstrip #3 and #4 were used as a conservative proxy for LRIC for both Pacific Power and Light and the Montana Power Company.

The Montana PSC respectfully submits that the use of Colstrip #3 and #4 costs has a logical regional application and significance. Five major IOU's (PP&L, MPC, PgSP&L, WWP, and PGE) participate in these units. Furthermore, these resources are included in Table I as near term thermal resources in the BPA plan, and BPA has a major transmission commitment associated with the Colstrip Units. We have attached for your convenience the summary sheet establishing the full avoided costs or LRIC. The use of a different facility could, of course, be acceptable to the Montana PSC.

To the extent the use of LRIC is considered "too theoretical, speculative or unreal," the Montana PSC submits that given the early completion dates for the Table I thermal plants they will constitute real costs and real revenue requirements very soon!

A reasonably similar pricing strategy would rely upon the sale of specific thermal plant(s) output(s) at a level necessary

to cover the full revenue requirement of the plant(s). Again, this off-region marketing strategy would be unambiguous and fully cost justified. A sharing or pooling of benefits within the region could be in proportion to the firm surplus (firm resources less firm load) of the individual utilities.

IS LRIC PUNITIVE OR PROVINCIAL

To price the region's surplus firm sales on the basis of the regions LRIC (or in the alternative the fixed plus variable cost of existing thermal plants) cannot be considered punitive in any long-term economic sense. In fact, the long-run incremental cost principle is the basis for the PURPA avoided costs determinations in most jurisdictions.

The Montana PSC is literally putting the money (rates) where its philosophy and mouth are by adopting such full avoided cost rates for renewable resource acquisitions. Other PUC's in the region are doing likewise. Given that consistent long-run philosophy in acquiring renewables during a "surplus" period any criticism of off-region sales based on LRIC as punitive or provincial is indeed hollow.

The Montana PSC strongly urges BPA and the Northwest Power Planning Council to adopt this consistent philosophy in their resource acquisition plans. Conservation and renewable resources must be acquired at "full avoided cost" if the regional priorities of conservation and renewables are to develop. In reality such

acquisitions could be sold by displacement or contract as off-region sales at LRIC with the sales revenue and the job development remaining within the northwest where they are so desperately needed. Such treatment is equivalent to the sale of thermal resources discussed above.

GENERAL ASSUMPTIONS

1. Montana Power Company probably has excess generation capacity right now. This is subject to verification by the PSC in February hearings.

2. Montana Power Company will probably have excess generation capacity added to the current surplus if Colstrip 3, let alone 4, is declared used and useful. This will be verified in the Colstrip hearings scheduled tentatively for late summer, 1983. (For Points No. 1 and No. 2 I draw your attention to the press clipping on MDU's encounter with the PSC on this matter.)

3. BPA is in a surplus position at least through the end of the decade (See request for Recommendation). This Commission would like to see joint action to recover sunk costs from the California market (See PSC letter). Because of NW Regional Council proclivities, BPA institutional orientation to marketing, and FERC regulations regarding the intertie, a modified plan will probably result in cheap hydro power (available April through July...and getting more scarce in August-September) being plentiful for industrial use in the Northwest, including Montana.

4. Note that this probable abundance of spring and summer hydro will be in addition to 500 MW of hydro (previously firm) that will be spilled April 15 to June 15 as part of the NW fish program. There are no demand problems from August 31 to April. The result must mean extremely cheap hydro some parts of the year, if you can use it.

5. The Rocky Mountain Front in Montana has the best cold weather wind sites in the Northwest. Two are currently being mapped by BPA (Livingston and the Blackfoot Reservation). There are many others, including Great Falls, but the data is scarce. Locals are confident that Livingston will bear scrutiny. There is a long history of data for the site, now being considered seriously by reputable wind firms.

6. At least one reputable wind firm (United Technologies) has installed and is reasonably confident of its technology (aircraft and space based) 30 million of private money invested so far. What the company needs now is a major wind project to prime the pump of its production. Once through the early production phase, the unit cost will definitely decline (several references). A very likely production site for the nacele portion (locomotive size) of the UT generators is Livingston's locomotive rebuild facilities. This would seem to be preferable to the Swedish shipyards which built the first two devices. Unit cost is approximately 10 million initially.

7. United Technologies is interested in a joint venture partner for the wind farm development that will prime the market. Their propeller (260 feet long each) factory can build 50 a year.

8. The wind in Livingston (if preliminary facts withstand the test of time) should be compatible in time with the cheap spring and BPA/NW hydro. A Medicine Bow paper indicates that 1 MW of cold weather wind will "firm up" 2.8 MW of peaking hydro.

9. Large industrial customers (Alumax, for example) are interested not in the current price of energy, but in reducing the riskiness of the future price of energy. The lower the price, and the more fixed the price, the more attractive the energy package.

10. Due to fundamental changes in energy economics, large loads on systems cause rates to increase for both the large loads and for other ratepayers on the system.

11. Alumax, as an example, currently has a contract for energy at nearly 30 mills (3¢) in Umatella Oregon. If the price of BPA energy to DSIs rises much more, the company will have to drop the contract....with 16 million already invested. By comparison, the price of energy for the same load on our system is 1.2¢ on average, and will go to 1.6¢ on average when the commission's rate design order passes its current court test. Alumax is reluctant to enter montana because its own impact on our small system will drive rates to over 6¢ soon by their calculations.

12. The fundamental problem is: How to get new large loads without driving up both their rates and the rates of other catagories of customers.

If the full cost of a wind farm investment can be recovered through tax credits against corporate income earned from manufacturing DIRECTLY ASSOCIATED WITH THAT WIND FARM we may be solving the problem. This would mean that wind manufacturing companies on the front end would have a market created to justify production of their product, and could investmoney in that market knowing that it would be gotten back in the future in avoided corporate income taxes to Montana.

At the back end, large industrial users could get fixed price cheap energy in montana during winter months. The energy would be at a cost necessary to cover wheeling charges, landowner royalties, property taxes, operation and maintenance, and the interest charges on front end investment until recovered in the tax credit. The winter wind would round out the cheap hydro already available into the forseeable future in the region.

To get the cheap fixed energy....new large loads would have to locate in Montana.

ALUMAX ENERGY 320 MW (Doesn't take into account "staging" for two stage manufacturing facility)

* (indicates pure guesswork)

ct on other epayers ormal mpact	Resource Block	Size	Price (1/1/84 $'s)	Comments:
	"Normal" Industrial use Contract Firm	___MW*	1.8 ¢/Kwh (will rise over time)	Some allowance must be made for utility obligation to serve. Limited by political constraints & and Alumax realization that more load on small system means higher price Current price 1.8 ¢; rate redesign price 1.8¢; rate increase price (?).
ore favorable han normal mpact.	"Interruptable" System Reserve Not firm	___MW to 107 MW	1 ¢ (-)* (will rise over time)	PSC evaluating greater use of interruptable customers for system reserve instead of off system sales of reserve margins. MPC may be more interested with flooded market. Rate payer interested in stability Alumax has 80 in oregon, said it could use up to 107. Probably limited by need for reserve to cover late summer when wind or water are not available for next block.
No impact on MPC ratepayer; Favorable on BPA rate payer	"Time Compatible" Wind and Water Firm	___MW *	1 ¢ * (Mostly fixed if fish spill contract can be gotten early) Could vary with need for backup in late summer.	With full tax credit entire cost of wind system could be recovered from corporate income tax; abundance of long term surplus hydro for fish spills makes it theoretically cheap; costs should be carrying charges; wheelin fees; reserve costs.
~~Redundant~~ More favorable than normal impact on MPC and BPA ratepayers	"Not Used or Useful" Coalstrip Power Firm	___MW*	4.5¢* (variable element will reflect O&M and Fuel; mostly fixed)	Instead of stockholderes eating unplanned excess to utility base, they sell it to Alumax, or allow Alumax joint ownership (should be less costly).
	Total:			

Combinations are not inflexible, but are suggestive of a general approach.

0469

Department of Energy
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208

In reply refer to: PRTA

RECEIVED
JAN 19 1983
MONT. P. S. COMMISSION

JAN 17 1983

John Driscoll
Montana PUC
Capital P.O.
Helena, MT 59601

Dear John:

Per your request I have attached a sheet which summarizes the data that we have collected from our Montana sites. Please note that the period of record is very short and that data recovery rates are less than 80%. Longer data records and improved recovery rates are required before inferences can be drawn.

Sincerely,

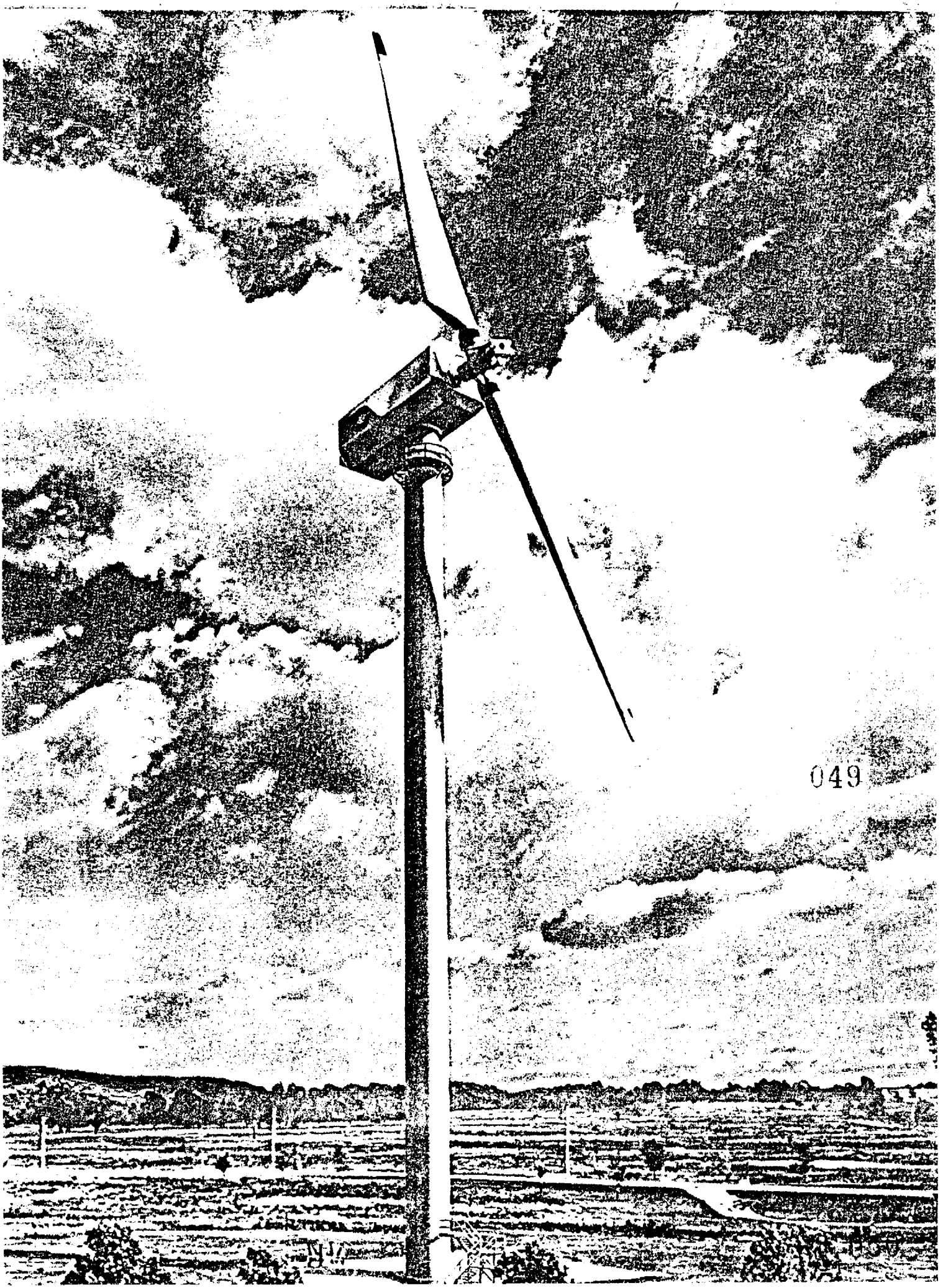
Michael J. Berger, Chief
Assessment Section PRTA

Enclosure

Table 2.3.6: Western Montana and southern Idaho sites wind statistics for the period June 1981-May 1982. (M - missing data)

Site (Anem. Ht(ft))		JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	AVG
Rainbow Field (30)	$\overline{V}$(mph)					15.7	19.9	17.1	18.6	21.0	M	M	M	18.4*
	% Data					94.6	99.3	94.6	92.2	93.8				39.5
	PD(W/M^2)					373	688	430	905	1094				690
	% V ≥ 15 mph					49	72	62	55	63				58
	No. Hrs ≥ 50 (Max V)					3(51)			15(64)	24(57)				42
McDonald Pass (30)	$\overline{V}$(mph)						22.5	40.4*	M	M	M	M	M	23.5*
	% Data						88.2	5.1						7.7
	PD(W/M^2)						756	3325						901
	% V ≥ 15 mph						75	100						78
	No. Hrs ≥ 50 (Max V)							9(55)						9
Livingston HOE (30)	$\overline{V}$(mph)	12.3	11.9	9.6	9.6	15.5	18.1	22.2	23.5*	--data not available--				16.2*
	% Data	97.9	98.5	97.9	98.3	99.5	98.9	88.0	41.8					60.1
	PD(W/M^2)	212	208	113	120	473	590	1271	1557					568
	V(100')	14.3	13.9	11.2	11.0	17.7	21.1	24.9	26.2*					17.5*
	V(150')	16.4	15.7	13.2	12.3	18.6	22.1	21.1*	26.4*					18.5*
Bennett Peak (32)	$\overline{V}$(mph)				15.3*	14.2	17.0	21.1	26.1*	20.9*	22.4*	M	M	19.0*
	% Data				20.1	89.9	95.4	89.1	46.8	32.4	30.5			33.7
	PD(W/M^2)				205	210	285	619	1020	579	941			521
	% V ≥ 15 mph				44	45	55	72	88	74	69			64
	No. Hrs ≥ 50 (Max V)								1(50)		8(57)			9
OTHER DATA														
Blackfoot (30)						14.5	16.8	18.0	19.3	16.8	12.6	18.4	11.9	16.0*
Swift Dam (30)						14.4	17.1	17.7	16.4	16.9	M	M	12.9	15.9*
Heart Butte (35)						15.5	18.2	16.5	19.1	18.9	M	17.3	16.7	17.5*
NATIONAL WEATHER SERVICE — Great Falls (20)		12.1	10.0	8.1	9.8	12.7	13.0	12.5	13.5	13.8	10.4	13.1	10.7	11.6
NATIONAL WEATHER SERVICE — Pocatello (20)		11.2	9.1	8.2	8.2	9.4	8.3	10.8	13.4	9.8	11.2	11.6	10.0	10.1
NATIONAL WEATHER SERVICE — Boise (20)		8.8	8.4	7.9	8.1	7.8	8.9	8.9	7.8	9.5	8.5	9.1	8.7	8.5
Bridger Bowl (20)								10.2	14.2	10.6	9.4			11.1*
Jackson Hole (30)								13.5	15.6	12.1	11.6			13.2*
Sun Valley (20)								9.4	11.0	7.6	8.9			9.2*

* Data recovery < 80%


049

HAMILTON STANDARD WTS-4
4 MEGAWATT WIND TURBINE SPECIFICATIONS

Rotor

Number of blades 2
Diameter ..... 256 feet
Material ..... fiberglass (with steel retention elements)
Speed, rpm 30
Rotation direction counterclockwise (looking up wind)
Location, relative to tower ..... downwind
Type of hub ..... teetered
Method of power regulation ..... variable pitch
Cone angle ..... 6°
Tilt angle ..... 0°

Blade

Length (total) ..... 125 feet
Weight ..... 30,000 pounds

Tower

Type ..... steel shell
Tower diameter:
at the base ..... 12 feet
Tower material ..... tubular steel
Ground clearance ..... 133 feet
Hub height ..... 262 feet
Access ..... internal tower elevator

Transmission

Type ..... planetary
Ratio 60:1
Input speed ..... 30 rpm
Output speed ..... 1800 rpm

Generator

Type ..... synchronous AC
Rating ..... 4000 kW
Power factor 0.8
Voltage 4160V
Speed ..... 1800 rpm
Frequency 60Hz

Orientation Drive

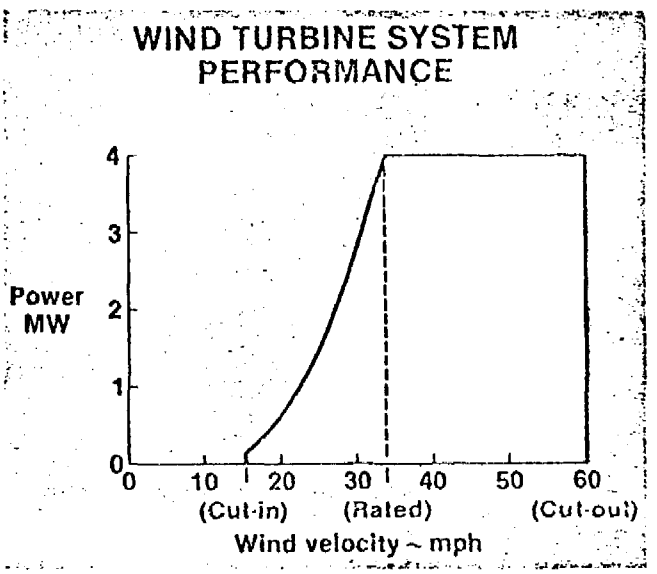
Type ..... free yaw

Control System

Type ..... Electro-hydraulic
Control ..... Microprocessor
Pitch change mechanism ..... Hydraulic

System Design Life

All components ..... 30 years



UNITED TECHNOLOGIES HAMILTON
For further information
Vice President - Marketing

The world's most powerful wind turbine is ready to begin generating electricity.

Standing over 250 feet tall, the four-megawatt turbine will produce enough power to meet the needs of 1,500 homes a year -- a job that now requires 20,000 barrels of oil.

The federal Department of the Interior's Bureau of Reclamation contracted for construction of the turbine in February 1980. Work was completed in July 1982, and the turbine is scheduled to be connected to the region's power grid during the fall of 1982.

The project is designed to test the concept of blending wind energy with hydroelectric power systems.

Upon completion of the testing of this concept and the first machines, as many as 50 wind turbines may be built near Medicine Bow, Wy.

Hamilton Standard's wind turbine consists of two 125-foot, 15-ton fiberglass blades mounted on a nacelle which houses the system's generator and computer control equipment. The nacelle, in turn, is mounted on a steel tower over 250 feet above the ground.

The turbine produces electricity when the blades, which face downwind, begin spinning. This rotation turns a shaft in the nacelle, and that motion is converted to electricity by a generator. The power is sent over conventional transmission lines.

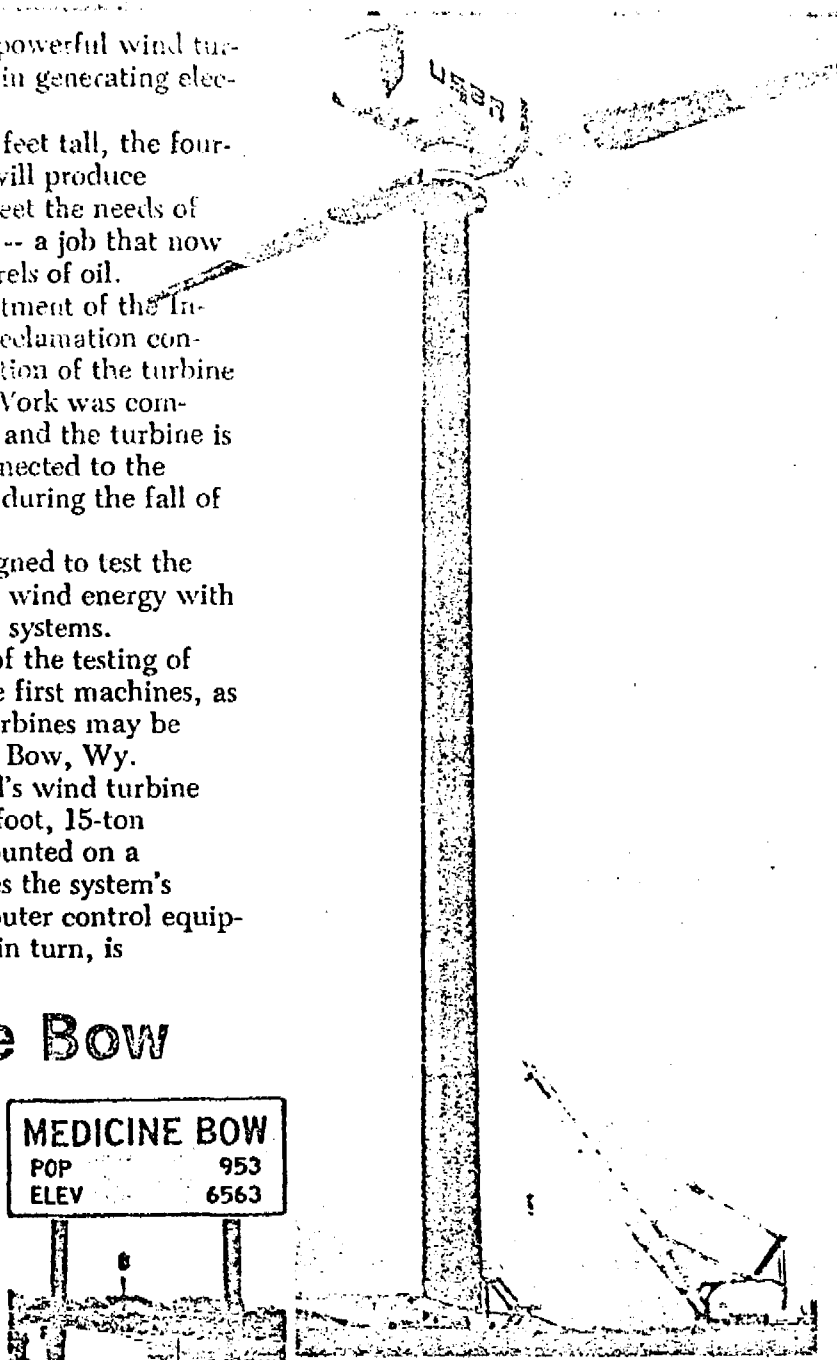
The machine is fully automatic and self-regulating. A computer system in the nacelle puts the machine into operation when the wind speed reaches 15 m.p.h. and shuts it down when the wind is above 60 m.p.h. The computer also sends orders to hydraulic controls, which tilt the blades at just the angle needed to obtain the maximum power from available wind.

The nacelle is like a weathervane in that it can "yaw," or turn freely, as the wind direction changes.

Hamilton Standard's wind energy experts believe the wind -- a clean, quiet and inexhaustible source of power -- could supply over two percent of the nation's electricity by the turn of the century.

Work on wind energy systems began at Hamilton Standard in the early 1970's, when it became apparent that the United States would have to become less dependent on foreign oil.

In designing the Medicine Bow wind turbine and a similar three-megawatt machine recently completed in Sweden, Hamilton Standard made use of its knowledge of propeller technology, aerodynamics and computer systems.



Medicine Bow

By virtue of being located in the path of a strong wind, Medicine Bow will once again obtain some measure of fame as the home of the world's most powerful wind turbine.

The town first made the map as the site of Owen Wister's classic novel, "The Virginian." This story of the American West, written in 1885, inspired the popular television series of the 1960's.

Legend has it that the town was named Medicine Bow because Indians who once came into the area to cut wood for their bows said the trip was good medicine.

In the late 1800's, the Union Pacific Railroad came through town.

In 1878, a young inventor named Thomas Edison took the train to Medicine Bow to get a look at an eclipse of the sun. The area provided the perfect vantage point, because the wind kept away any smoke, fog or

Who is Hamilton Standard?

From the propeller that carried Charles Lindbergh across the Atlantic to NASA's space shuttle and the Medicine Bow wind turbine, the United Technologies Hamilton Standard division has a history of putting technology to work for people.

Hamilton Standard's story dates back to 1919, with the founding of the Standard Steel Propeller Company in Pittsburgh, Pa. That company built the propeller for the "Spirit of St. Louis."

The name of Hamilton Standard's parent corporation is United Technologies (UTC). Headquartered in Hartford, Ct., United Technologies is a leading Fortune 500 company. Its various divisions manufacture products in Windsor Locks, Ct., employs 13,000 of the 190,000 people working around the world for United Technologies.

For its first 30 years, Hamilton Standard made only one product -- propellers. Now, it also designs and produces sophisticated control systems for virtually every aircraft in service today. It also makes products for automotive and industrial markets and the nation's space program.

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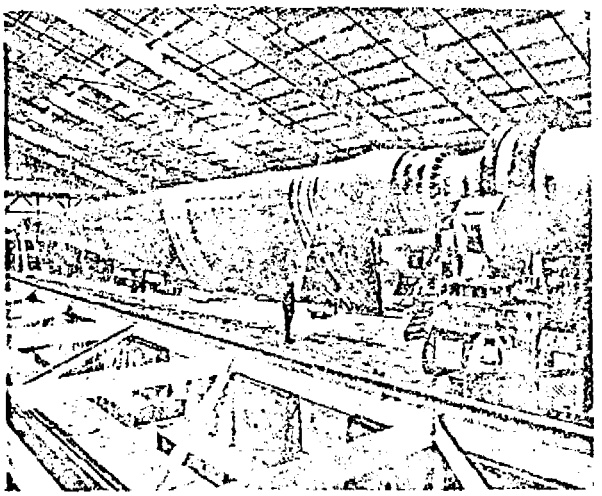
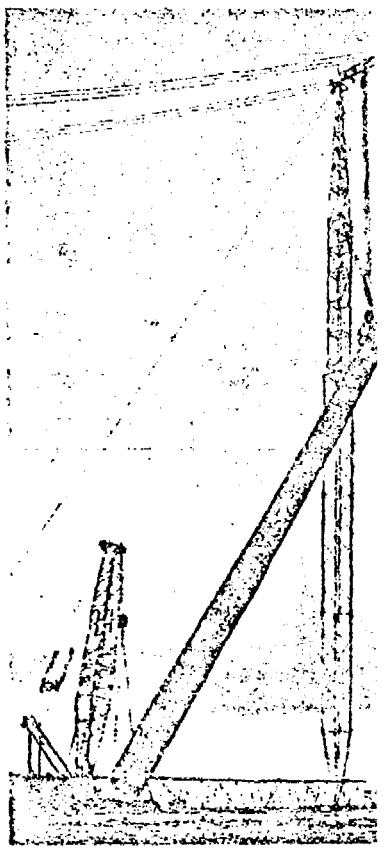
UNITED TECHNOLOGIES HAMILTON STANDARD

ng[f nacelle

Shipping of blade



Winding of blade



Erecting turbine tower

: U nited Technologies
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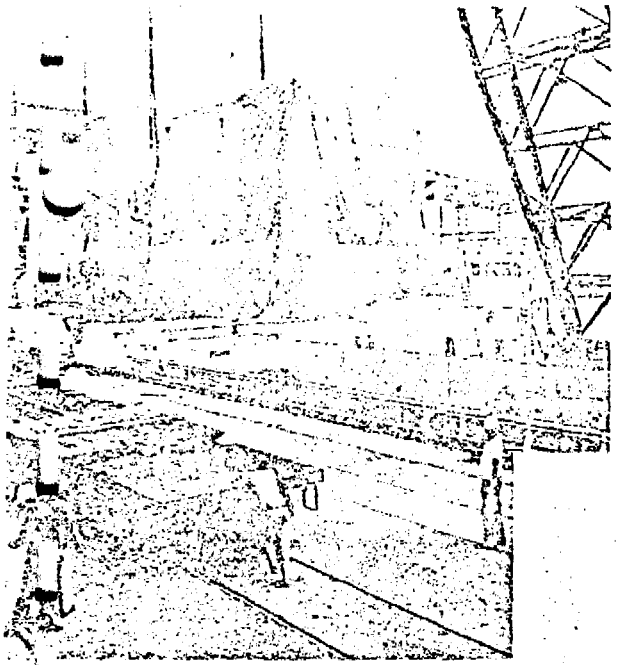
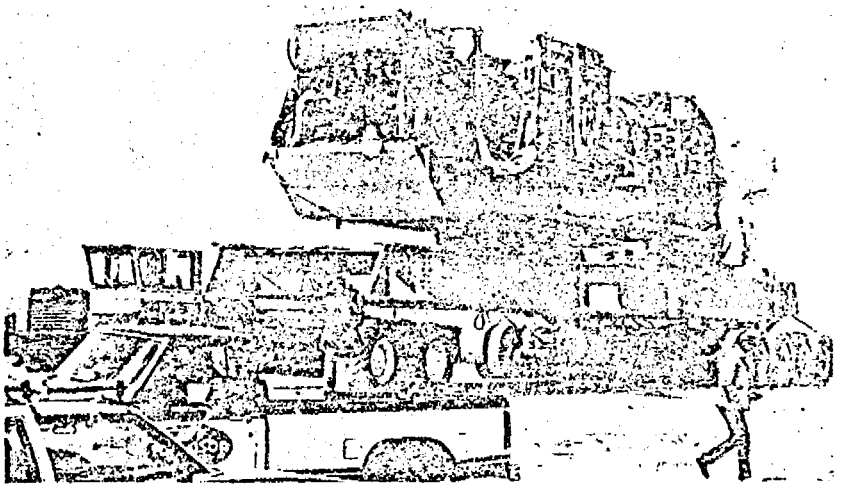
The 15-ton, 125-foot long blades for the wind turbine were produced by Hamilton Standard through a unique, computer-controlled fiberglass winding process. Fiberglass was selected as the material for the blades because of its relatively low cost, its durability, and its resistance to corrosion. The blades were made at Hamilton Standard's wind energy facility in East Granby, Ct. That facility is the only one in the world specifically designed for the production of wind turbine blades.

The turbine tower is a hollow steel tube provided by ITT Meyer Industries of Red Wing, Minn. It was formed by seam-welding steel plates in a 12-sided tubular arrangement. The tower sits in a solid concrete foundation 70 feet deep and 19 feet wide. In December 1981, the tower was lifted into place with a crane under the supervision of Stearns Roger, of Denver, Co., the firm in charge of all site and construction work.

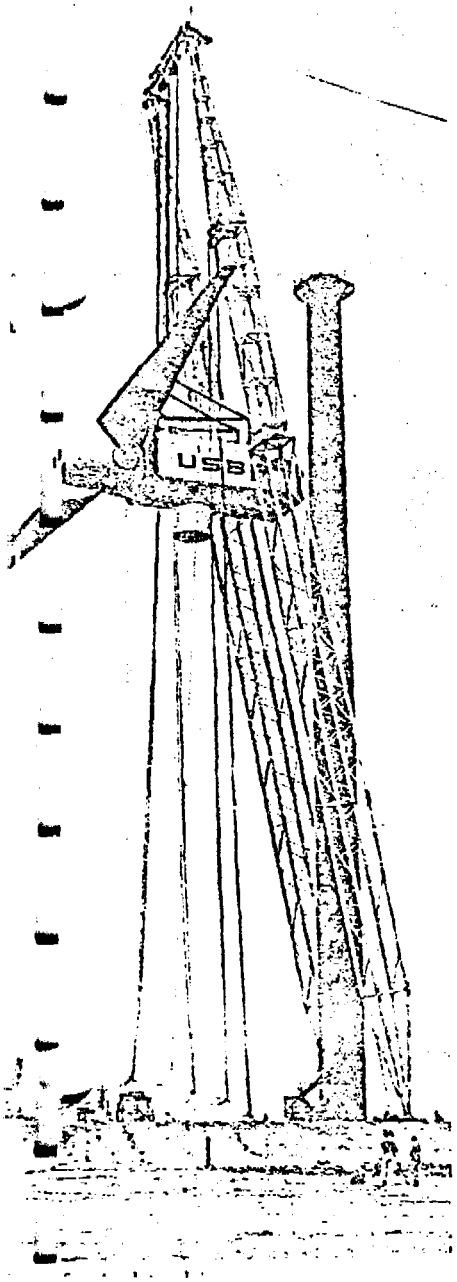


idi of nacelle

Nacelle and blades on test stand



Moving nacelle to site



The two blades were driven from Connecticut to Wyoming aboard trailers designed by Hamilton's engineers. Because of the size of the loads, there were restrictions on the highways the blades could travel and the hours they could be on the road. As a result, it took drivers from International Transport, Inc., 10 days and 3,000 miles to bring each blade cross-country.

The nacelle contains the gearbox, generator, and hydraulic and computer controls for the wind turbine. The nacelle, which weighs 330,000 pounds, was assembled by Swedyards, a Swedish company. It was shipped from that country to the port of Houston, Tx., by the Lykes Bros. Steamship Co. of New Orleans, La. In Houston, the nacelle was lifted by cranes out of a barge and onto a heavy-duty railroad flatcar.

After riding the rails to Medicine Bow, the nacelle was lifted again. Lampson Inc., of Denver, Co., used cranes to take it off the train and place it on a special transporter vehicle for the final 5.9-mile ride to the turbine site.

Once at the site, the nacelle was placed on a test stand. At this point, a building was constructed around it so workers could fully reassemble and test it. The blades were also mounted to the nacelle while it was on the stand.

On July 9, 1982, a crane alongside the tower was used to lift the nacelle and blades into place. Once these components were on top of the tower, workers bolted them into place. Ninety-six bolts, each eight inches long, were used for this job.

Dedicating the wind

by JAMES R. UDALL

TWO GIANT WIND TURBINES were dedicated in Medicine Bow, Wyo., on Sept. 4, 1982 — the centennial of central station electric power. The machines, a 2.5 MW Boeing Mod-2, and a Hamilton Standard W.T.S.-4, which at 4 MW is the world's most powerful wind machine, were funded as part of a Bureau of Reclamation demonstration project. Together the two will provide enough electricity to power 3,000 homes.

How did the Bureau of Reclamation, better known for dams than windmills, get into the wind business?

In 1976, after the first oil crisis, the bureau began a search for methods to enhance the power generation from its existing facilities. After finding inspiration in a Swedish experiment, two BuRec engineers, ironically named Stan Hightower and Abner Watts, proposed a simple — and elegant — plan.

If the bureau meshed megawatt-sized wind machines into its existing hydro-power grid it could remedy, in one stroke, the characteristic defects of each of the two energy sources. On the one hand, the engineers reasoned, integrating wind into an electrical system is difficult because some provision must first be made for its sporadic nature. As for hydro plants, they rarely have enough water — particularly in the West — to run continuously at full capacity.

By blending wind and water the bureau could conserve water while the wind was blowing, and during calm spells, hydro power could firm up the intermittent wind-generated electricity.

Congress bought the concept, appropriated the funds, and now, six years later, the Bureau of Reclamation owns two state-of-the-art wind turbines.

The turbines are enormous — more than 300 feet high — and enormously sophisticated. Both turbines are monitored by computers; for instance, if ice forms on the propeller a sensor triggers an alarm which automatically halts the blade. Some part of this sophistication was supplied by another federal agency which might also seem misplaced in the wind project, the National Aeronautics and Space Administration (NASA).

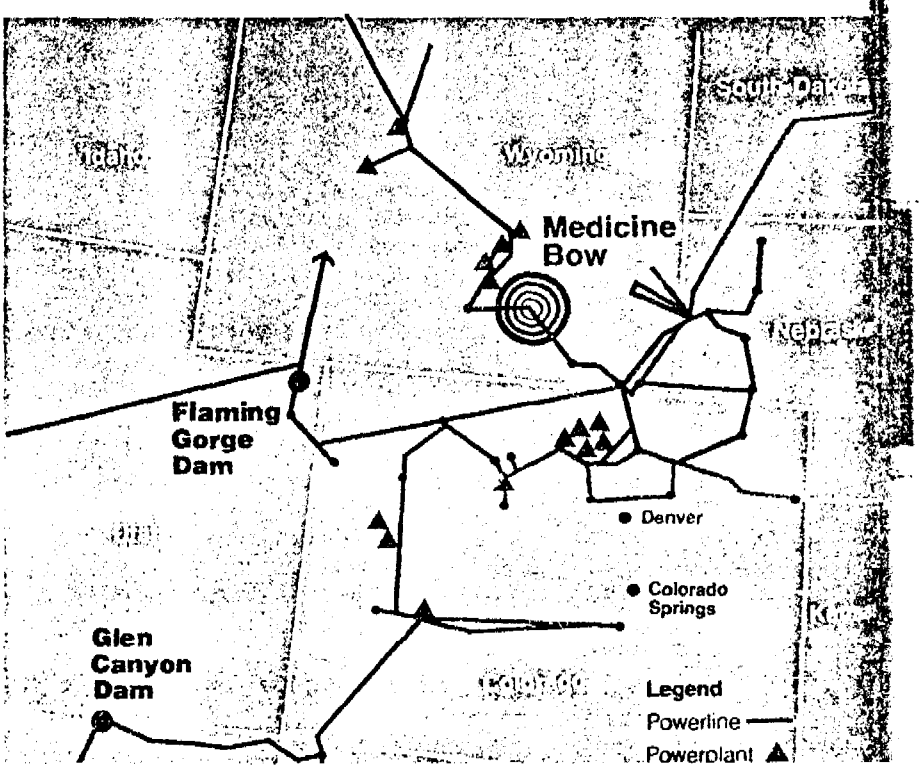
Representing NASA at the dedication was Vernon Weyers, who three years ago was tranferred from launch vehicles to wind machines. Weyers recalls that after telling his children the news, they said, "Dad, you've become the first man to go from the Space Age to the Stone Age in one day."

"But the basic principles of aerodynamics, systems integration and structural a[nal]ysis are the same," said Weyers. "We've [only] transferred the technology."

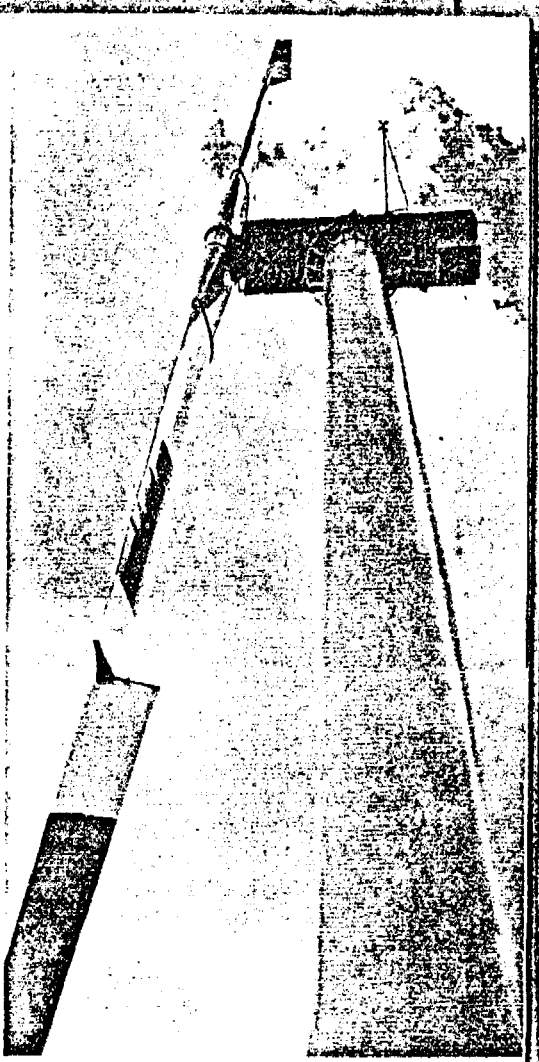
Since the bureau eventually hopes to [sign] contracts for a 100-MW windfarm in W[yo]ming, the competition between Boeing [and] Hamilton Standard, a subsidiary of Un[ited] Technologies, has been fierce. "This is [the] first time we have had two different des[igns] competing side by side," said BuRec e[ngi]neer Watts.

The outcome of that contest will hinge [on] the chief design consideration in large [and] small wind machines — reliability. A [ma]chine that runs half the hours in a 10-[year] period will have had the equivalent use [of a] car that was driven two million mi[les].

The Bureau of Reclamation's Medicine Bow, Wyo., wind project is strategically located in a h[igh] wind area close to major transmission lines and hydroelectric and coal-fired plants, facilita[ting] efficient integration of windpower into the grid.



Udall is a free-lance writer based in Denver, Colo.



The large wind turbines at Medicine Bow are the 2.5-MW Boeing Mod-2, right, and 4-MW Hamilton Standard W.T.S.-4. The latter has produced up to 4.8 MW of sustained power and will generate enough electricity to meet the needs of more than 1,500 homes a year, according to the Bureau of Reclamation. The bureau estimates large-scale wind turbines operating at potential western sites could add 5,000 MW to the nation's generating capacity, producing 15 billion kWh a year.

"These are fatigue machines," said George alker of Ham Standard. "To assess them need a lot of operator time in an utility environment. You have to cycle the blades, develop the stresses and see how the maine holds up."

The challenge of windmill design is that the turbines have to be machined to exacting tolerances, but they also have to be able rotate untended in hail, rain, snow and gh winds. If something goes wrong, a wind turbine can self destruct in a hurry.

Notwithstanding such problems, a number of companies (in addition to Ham Standard and Boeing), including Bendix, Westinghouse and General Electric hope to mart the first 'economic' multi-megawatt nd turbine.

In theory, large machines have an economy of scale that smaller turbines cannot itch, but there are those who feel the large mpanies are on the wrong path. "I think these giant machines will be dinosaurs," d Jay Carter Jr. of Carter Wind Systems. or these aerospace companies bigger is b but the machines are not yet cost- ve and government subsidies won't be e forever."

Carter's own 25-kW machines are backordered 2½ years, and his design is so respected by Hamilton Standard that it has ught an interest in the smaller company and plans to monitor a 25-kW Carter in Medicine Bow. Though it would take 160 Carter's machines to match the output of one Ham Standard turbine — and Carter can only make four a week — if Ham Standard or Boeing cannot build and *sell* enough machines to gain the benefits of mass production, large turbines may never grab a significant market share.

As Bob Bussolari of Ham Standard put it when asked the price of his firm's turbine, "You don't want to know the price of the first Model-T, the one you want to buy is the 1,000th."

"But if Ham Standard doesn't sell the 10th unit," said Don Hardy of Pan Aero Corp., a Denver-based windfarm developer, "They'll never sell the 1,000th. These large companies have to price that first unit into the marketplace and that requires a commitment to manufacture it at an initial loss."

Currently both large and small wind turbine companies are relying on third-party, venture capital firms such as Pan Aero to keep the industry solvent. But third-party developers are having their problems as well. High interest rates, the oil glut, and legal challenges to the Public Utility Regulatory Policies Act (PURPA), which guarantees small energy producers a fair price and a market for their electricity, are slowing emergence of the industry.

The dedication ceremony was a low key affair. A girl on horseback delivered a letter from Secretary of the Interior James Watt saying he approved. Daisy Mae Epperson, of Rock River, Wyo. was awarded a medal for her 1948 letter in which she had told her congressman that the nation ought to build some machines to harness Wyoming's wind. Thirty-four years late, her wish was being granted.

Leaving the dedication I drove west past hulking dragline shovels, laid-off servants of Old King Coal, the nation's most abundant fossil fuel. In Rawlins, Wyo., the morning paper reported auto sales down to the lowest level since 1962, when the United States was using roughly half the electricity used today.

Past Rawlins, 100 miles from the two turbines, the wind was still sweeping strongly from the west, antelope grazed, and the horizon was empty. How many wind turbines, I wondered, might be economically placed on America's great plains? And I recalled what Jay Carter Jr. had said:

"Wind will be stronger in 20 years than it is now. Stronger in 50 than in 20. There's five to 10 percent of the nation's energy blowing around free out there. And though the utilities right now have a wait-and-see attitude, they'll soon be scrambling all over themselves to get every part of it." ✹

Stearns
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Senate Taxation Comm.
Exhibit B
April 7, 1983
HB 755

City of Livingston
Montana

414 East Callender
Livingston, Montana 59047

FROM THE OFFICE OF

MAYOR

January 6, 1983

The Honorable Ted Schwinden
Governor, State of Montana
Montana State Capitol
Helena, MT 59620

Dear Governor Schwinden:

Per your request of December 7, 1982 in which you reference the Department of Revenue Memorandum, dated November 30, 1982 regarding the proposed Montana Wind Energy Commercial Investment Tax Credit, and requested our comments regarding the above referenced memorandum, we should be pleased to take this opportunity to comment on such and appreciate the opportunity to do so.

BACKGROUND

To begin with, the rationale behind this proposal is based on the following premise: that by harnessing the identified wind energy resource in Montana (second only to Texas) we can accomplish two goals simultaneously.

1. Through in-state placement of electrical generating facilities we can create job opportunities with operation and maintenance of these same facilities, and also create jobs associated with assembly and manufacturing of equipment placed in these facilities.

2. Through establishment of in-place electrical generating facilities in the state of Montana we can assure other industry, dependent on electrical energy, of plentiful and varied electrical energy sources not dependent on regional, and therefore, outside control, and make Montana a more attractive environment for industrial development.

We can accomplish these two twin goals by encouragement in the early years of wind energy development by making Montana as attractive a site for construction of these generating facilities as possible (i.e., tax credits).

Through successful encouragement and placement of generating facilities in Montana, we can resultingly attract assembly and manufacturing of associated equipment here through a formula of 'scale of economy'. The concentration of machinery that is required for placement of wind electrical energy generating facilities will demand that manufacturers place their factories as close as possible to their markets to minimize transportation costs, as well as to provide responsive warranty repair stations. This relationship between generating facilities and manufacturing operations is especially true when

you consider that wind energy is an infant industry and therefore mass manufacturing capabilities have not been established by the factories producing these goods. The establishment of long-term markets will, therefore, dictate where manufacturing factories will be established; as the market expands into a more national and international picture, these manufacturing sites will remain and expand to meet that market. We submit that Montana is the logical area for establishment of these manufacturing operations.

RESPONSE TO REVENUE DEPARTMENT ASSESSMENT

To specifically address the Department of Revenue memorandum regarding proposed legislation granting certain tax credits to stimulate the above economic development scenario, we should like to go on record and address the following points in the order in which they appear in the memorandum.

The California law cited by the Dept. of Revenue does not, in fact, make specific mention of whether the up-grading of existing utility equipment would qualify for the tax credit. The included equipment does include collection and transmission equipment, and the lines between wind energy facilities and existing utility lines. It appears that if such up-grading were reasonably necessary to the operation of a wind energy facility in California, the cost of such up-grading would qualify for the California credit.

The need for the inclusion of such up-grading is important. Many proposed wind farm developments are some distance from a transmission line with sufficient capability to handle the power to be generated. Rather than installing new collecting lines, it may be more appropriate, in some situations, to modify existing lines of lower capacity. For example, new lines, insulators and extra arms may be installed on existing power poles. Similarly, existing electrical substations may require modifications to handle the increased level of generation.

The California Franchise Tax Board, cited by the Dept. of Revenue in regards to possible expiration of the California law, is the revenue collection arm of the state government and has no particular expertise in assessing the likelihood of the passage of pending legislation. Other state agencies, particularly the California Energy Commission, can be found which will speak for the position that the proposed California state tax credit extension bill does, indeed, have a good chance of passage. Although it is true that very poor fiscal conditions confront the state of California, the real cost of the tax credit is open to question. Furthermore, there is a popular conception in California that the recent extraordinary increases in electrical rates are related to the cost of foreign oil and thus, that lessening dependence upon such fuel sources will abate the seemingly needless utility rate increases. Therefore, there are many California state legislators who are anxious to convey to the voters their support of alternative energy techniques. Further, to qualify in California at this time for the credit, regardless of renewal of the tax law, all a developer need do is begin construction, (i.e., roads) before the end of 1983 and have the ability to generate before 1985 to take full advantage of the law.

The Dept. of Revenue memorandum cites a list of existing incentives and subsidies currently available in Montana which seemingly meet the need to create a proper business climate in Montana for energy development. Importantly however, the Dept. of Revenue correctly differentiates between manufacturing operations and actual electrical generation facilities when they suggest "Nearly all of the incentives listed above are likely to be available for a plant that would manufacture wind energy components... The effectiveness of Montana's tax incentives is somewhat different, however, for wind generation....If the investment in wind farms is organized through limited partnerships with more than ten (10) partners, the only incentive of those listed above that is likely to be relevant is the favorable treatment of net operating losses".

Montana's treatment of net operating losses may be less attractive than it might first appear. Generally, a reduction in state income tax liability will result in an increase in federal income tax liability. This is because state income taxes are generally deductable in computing federal taxable income. The investor in a Montana wind energy development limited partnership is likely to be in the 50% federal tax bracket. Thus, it is reasonable to assume that his federal tax liability will be increased by 50% of the decrease in state tax liability.

Using the referenced $44 million wind energy development project in Alameda County, California (Windpower Partners - 1982-2) as an example, were this project built in Montana, the investors state income tax savings during the first four years (not including tax credits) would thenceforth be recovered in state income tax payments every two years thereafter, according to figures presented in the offering prospectus. Both California and Montana, by the way, have top state income tax brackets of 11%. Importantly, as the point made in the beginning of this letter strongly indicates, construction of wind electrical generating facilities must predate manufacturing operations to create that same manufacturing potential.

Therefore, we can effectively see the ability of Montana to respond to and create an effective climate conducive to creating energy development is lacking at this time and remains to be addressed.

The Dept. of Revenue memorandum states that "At present Montana's avoided cost rates for the purchase of electricity from alternative sources are, after capacity factors are included, generally somewhat lower than California rates. This circumstance should favor development in California". This statement is incorrect and reflects a general misunderstanding of energy policy as determined by the federal Public Utilities Regulatory Policy Act (PURPA). In fact, at this time the long-term base rate for Independent Power Production to Qualifying Facilities (QF) are higher than those assessed in California. The effective purchase rate the City of Livingston is receiving for sale of electricity per kw hour, including capacity, is 6.44¢ as paid by the Montana Power Company, as compared to 5.4¢ plus .5¢ capacity assessed against Southern California Edison, and 5.854¢ plus capacity of .58¢ assessed against Pacific Gas and Electric, these being the two largest utilities in the country. Therefore, to borrow the Dept. of Revenue statement, these circumstances should favor development in Montana; the fact that we are not seeing such is again reflective of California's existing tax credit.

The Dept. of Revenue memorandum asserts that the wind energy tax credit would be very expensive. This could be true in the sense that the proposed tax credit bill acts as a necessary 'loss-leader' for stimulating manufacturing industry. However, the extent of that expense can be mitigated when we look at the revenue stream that will accrue to both state and local government coffers in the long-term, when we look at both five and ten year cash flows.

For example, let's look at the estimated gross economic impact of wind energy development in Park County alone, over the next 20 years (Park County being only one of over two dozen counties with strong wind energy electrical potential). There follows an estimated reasonable scenario in which 1,000 megawatts of wind turbines are installed in Park County during the 20 year term formerly referred to. 1,000 megawatts is quite a lot, equivalant to one nuclear power generator plant, representing perhaps 20,000 machines of the size commonly used in wind farms in California, and 300-400 large machines of the Bendix, Boeing or United Technologies variety.

Quite obviously Park County has no foreseeable need for such amounts of electric power. A primary reason for the universal popularity of electric power is the ability to transmit it over long distances by the use of relatively inexpensive facilities having relatively small line losses. It has been estimated that transmission of power from Wyoming to California would result in a loss of only 6%. Thus it is not unrealistic to envision Montana as an important center of wind energy facilities, but of electrical generation as well. To accomplish this by using a clean, inexhaustible source of power, rather than a coal or nuclear plant, would seem a goal worth pursuing. The unit cost of wind farm equipment is expected to drop substantially over the coming years, as volume orders justify mass production techniques and foreign competition make further inroads into the domestic marketplace. Following staff statements of the California Energy Commission, who have used a unit cost of $800 per kw, multiplying this by the above 1,000 megawatt (a megawatt is 1,000 kw) we have a total development cost of $800 million in Park County.

For such development under the Montana Wind Energy Commercial Investment Tax Credit proposal, the 35% tax credit would cost the state treasury $280 million or an average of $14 million annually. However, the tax credit bill is envisioned to expire five years after proposed adoption, limiting the term of amortization, as well as the fact that large portions of limited partnership investment capital will come from outside the state of Montana and therefore constitute new revenue sources to the state rather than a drain on existing tax base.

Continuing with the 20 year scenario, though, based on Employment and Gross State Product (GSP) multipliers as estimated by the California Department of Water Resources Bulletin 210 (March 1980), Measuring Economic Impacts, Tables 15 & 16 pages 96-103, the California Energy Commission places the increase of employment arising from such development at 42,250 employment years, for an average of 2,112 full time jobs throughout the 20 year period.

State income taxes in California and Montana seem comparable, with both having maximum tax brackets of 11%. According to the Statistical Section of the California Franchise Tax Board, the average tax rate for wage income is 3.5% and for corporate profits 9.6%. By use of the GSP multipliers, the California Energy Commission states that the increase in state income tax revenues for such a 1,000 megawatt project at $72 million or an average of $3.65 million annually.

If taxed at 1%, property tax on equipment with a capital cost of $800 million would amount to $8 million per year, a sum nearly equal to the gross income from the sale of beef in Park County during 1980.

Again, based on these same GSP multipliers, the commission estimates the increase in gross state product at $3.3 billion, or an average of $824 million over each of the 20 years. Of this amount, 63% is wage income and 14% profit income (see DWR bulletin 210, page 7). To place the figure of $824 million in perspective, livestock production contributed $800 million to Montana's economy in 1979, or 58.4% of the states agricultural income, Montana's largest industry.

It is not possible to quantify the social, family or community benefits which would also accrue to the people of Montana from such development. Tourism, certainly in the early years, should increase significantly. Retail sales, housing and automobile markets cannot but help being impacted by the creation of 2,112 new jobs; this without even allowing for associated manufacturing potential referred to earlier in this letter.

Additionally, no where in the Dept. of Revenue memorandum do we find reference to an extremely large group of Montana tax payers -- utility rate payers. Utility companies across the country are experiencing increasing difficulty in raising funds for required capital improvements. Even when successful, high interest rates and construction costs are passed through to the already overburdened rate payers. The independent power producer undertakes all the risks inherent to the development of alternative techniques, selling the power to utility companies at wholesale rates. The utility's only obligation thereafter is to purchase that power the developer is able to deliver. The opportunity to purchase new power without ratebasing the associated capital costs is a significant additional benefit to the utility, and thus to its rate payers, the people of Montana.

The statement is made in the memo that "Wind energy is (one) of the more expensive forms of renewable energy". We strongly disagree with this statement. The attached chart, taken from a recently published report by the California Energy Commission clearly indicates that the cost of wind energy is nearly half that of the next least expensive generation source, and the last in cost of all 16 generation sources listed, both renewable and conventional.

Nor is the question of equipment cost effectiveness of concern to Montana's utility companies or rate payers. The Montana Public Service Commission mandates a single price to be paid by utility companies for power produced by all alternative generation sources. The profitability, or lack thereof, to the independent producer is thus controlled by market factors acting

upon his decision on whether or not to construct a particular project. The price he receives for his power is not a function of his capital or operation costs.

The conservative attitude of many public utility companies does not permit them to invest in equipment which they perceive as new and less than reliable. These perceived risks are thus undertaken by private wind energy development farms largely with financing from institutional sources or from the sale of limited partnership units. The reality of competing for such funds in the financial marketplace requires that one offer tax benefits to the potential investor. Tax credits are the most attractive such benefit. Therefore, it is not that wind energy is insufficiently competative with other forms of alternative energy to attract investment capital, but that the benefits of the financial offering must compete with all manner of other investment opportunities.

CONCLUSION AND RECOMMENDATIONS

In summary, the proposed Montana Wind Energy Commercial Investment Tax Credit, as an economic development tool to broaden base employment opportunities within this state, does, to a degree, function as a 'loss-leader' for stimulating electrical energy generation plants and associated manufacturing operations. Short-term revenue decreases to the state of Montana can be made up in the long-term through attraction of new taxable revenue sources to the state including generation facilities, factories, payroll and other items. The City of Livingston, in cooperation with various investment groups, are developing additional cash flow scenarios that involve demonstration of potential investment as per the proposed tax credit; as these are finalized in the next few weeks they will be forwarded as additional attachments to this transmittal.

In carefully reviewing the proposed tax credit legislation five (5) areas of amendment could be proposed to help stem concerns of potential revenue loss to the state. These would include:

1. Inserting language in the bill that clearly limits application of the tax credit for a period not to exceed five years before the bill itself is terminated (i.e., 5 year sunset provision attached to the tax credit). If the bill is adopted in 1983, projects not begun previous to 1988 would not be eligible for this credit. This concept was intended to be written into the original bill, but due to an oversight has been neglected to be included in the original draft. We endorse such a limitation.

2. The tax credit, as originally concieved, was meant to simply address wind energy electrical generation as an identified target industry. In the process of being drafted by the Legislative Council, input received from certain legislators broadened the bill to include all recognized non-fossil forms of energy generation. We would endorse an amendment to restrict the bill to its original intent of wind energy electrical generation as

a measure to restrict potential revenue losses to the state from other forms of alternative energy application, as it appears it is not clearly understood what financial impact the broadening of the bill previously referenced could have on state revenue.

3. The proposed tax credit bill, in terms of the percentage of investment to be allowed as a credit could be reduced by amendment to further decrease potential impact of loss of taxable revenue to the state of Montana. It should be kept in mind that California's law is a credit of 25% and if consideration of reducing the credit in Montana is made, the ability of Montana to create a proper attractive investment climate for this activity, the credit should not be so reduced as to be eclipsed by California initiatives. On the other hard a reduced credit relative to the original proposal is certainly more effective than no credit at all. We would be happy to work with the state of Montana in exploring such an option.

4. Again, in an effort to reduce potential revenue losses to the state of Montana associated with adoption of the tax credit bill, the credit as it applies to manufacturing and utility up-grade could be deleted, and result in targeting a tax credit for wind electrical generating facilities only. While not desirable, this kind of amendment protects the main intent of the bill of still stimulating placement of these same generating facilities. A reliance on simple 'economy of scale' would be developed however, in the hope of attracting associated manufacturing associations rather than creating a specific atmosphere conducive to such operations. However, as correctly pointed out by the Dept. of Revenue memorandum, a number of incentives certainly exist that could adequately stimulate manufacturing interests. Utility up-grade costs would have to be shouldered and absorbed by the developers as part of the overall construction costs.

5. The tax credit bill could be amended so that the minimum qualifying investment be measured against the total cost of an individual project, without regard to the amount invested by a single tax payer as an expression of a to be determined ratio. This would effectively lower the minimum qualifying investment from an absolute dollar amount (i.e., $50,000) and allow for broader participation by potential investors, as well as allowing for smaller scale projects to qualify also. The total cost of a qualifying project could be reduced to as little as $20,000 as opposed to the current minimum limitation.

Again, thank you for your time and consideration of this matter, as well as the invitation and opportunity to comment on the Dept. of Revenue's analysis of the proposed Montana Wind Energy Commercial Investment Tax Credit.

Sincerely,

S. Charles Nicholson
Mayor, City of Livingston

E. R. Stern
Community Development Director

SCN/ERS/sw

TABLE E-111-4

Levelized Cost Calculations Using TAO Model
10% Real Discount Rate and 3% Real Interest Rate
Range is 20% Plus and Minus of Actual Calculation[a]

(¢/kWh)

Technology (Fuel Type)[b]	1987	1994	1998
Wind Turbine[c]	5-7	6-10	7-11
Wood-Fired	9-13	15-23	21-31
Steam Geothermal	9-13	17-25	23-35
Fuel Cell (Methanol)	10-16	15-23	19-29
Small Hydroelectric[d]	10-77	18-139	25-194
Cogeneration (Natural Gas)	12-18	16-24	22-34
Fuel Cell (Natural Gas)	13-19	24-36	34-52
Biomass[d]	14-24	22-40	29-52
Repowering (Methanol)	18-26	21-31	26-38
Coal	-	22-34	31-47
Cogeneration (Distillate)	14-20	25-38	26-54
Nuclear	-	25-38	38-58
Advanced Geothermal	16-24	29-43	41-61
IGCC[e]	17-25	30-44	41-61
Solar Photovoltaic	20-30	31-47	41-61
Oil-Fired	23-35	44-66	62-94

a. All plants begin operation in year indicated, analysis based on 30-year plant life.
b. Data from California Energy Commission Electricity Cost by Generation Technology September 1981, P300-81-012.
c. Real Capital Escalation = -3.3 percent.
d. A range of low and high instant capital costs were used to calculate levelized costs.
e. Integrated Gasification-Combined Cycle.

Law Library

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 13, 1983

The sixty-seventh meeting of the Taxation Committee was called to order at 8:05 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present

CONSIDERATION OF HOUSE BILL 573: Representative Ted Schye, House District 4, said all of us are aware of the transportation problems we have in being a large rural state. The airport system is in the same condition as the highway system. Federal funding is not allowed for maintenance. Most airports cannot come up with the matching funds. User fees should fund the maintenance of airports. The aviation fuel license tax rate has not been raised since 1945. This bill will increase tax collections by $457,000 over the biennium. It creates a revolving trust account to deposit 100% of the one cent tax increase out of which loans, grants, and navigational aids may be provided to local and state governments for aeronautical purposes. There are 116 public use airports in Montana now. Of those, 40 are not eligible for federal funds. An additional 5 which are not now eligible have made requests to receive federal funds. The other 70 are eligible to receive federal funds.

Representative Schye provided the committee with a Montana Aeronautical Chart (Exhibit A) and with a fuel tax comparisons chart dated 2/83 (Exhibit B) comparing Montana aviation fuel taxes with those of surrounding states. He introduced Mr. Engdahl from the Federal Aviation Administration who could later explain what the federal moneys can and cannot be used for.

PROPONENTS

Robert Hollister, representing the Montana Pilots Association, submitted written testimony, attached as Exhibit C.

Herb Sammons, representing the Montana Board of Aeronautics, submitted written testimony, attached as Exhibit D. He said that due to insufficient funds, they cannot fund their programs to $250,000 for the next two years, and the loan repayments from these programs will not be sufficient for matching federal funds.

Mike Mulroney, representing the Montana Chapter of the Antique Airplane Association, said he strongly supports HB 573 and submitted written testimony, attached as Exhibit E.

Dakota, for 30 years but they don't now. They serve Grand Forks, Mandan, Fargo, and Bismarck.

Senator Severson said he didn't blame anyone for resisting an increase in the tax, but he said it seemed unusual that Northwest would resist the state with the second lowest rates in the union when their headquarters are at a tax of 11 cents a gallon. Mr. Baskfield responded that they have only 107 employees here in Montana, and they have thousands in Minnesota.

Mr. Holman referred to the Minnesota figures on the chart attached as Exhibit B. They have a 6-cent a gallon rebate up to 50,000 gallons, and 200,000 gallons or more brings a 10½-cent a gallon rebate, so they are only paying ½-cent a gallon tax. He felt the bill did not specifically include general aviation operators like him.

Senator Gage asked Mr. Baskfield if he knew what percentage of Northwest Orient's costs were fuel costs. Mr. Baskfield said 35.4% were fuel costs.

Representative Schye presented a mailgram from Wes Eyer, Glendive, Montana, who studied the Aeronautics Division for the Governor's Council of Management, attached as Exhibit X. Look at the taxes paid on aviation fuel right now. General aviation fuel now pays a 14 cent federal tax; international passengers pay a 3-cent tax; other airline passengers pay an 8% ticket tax. The passenger pays all of these grouped together. He compared the aviation situation to the highway program passed yesterday and the user tax on highways. He said he believes in the federal matching funds and hopes it continues on its way through, but we still need this one-cent tax to keep our airports in shape.

Representative Schye stated he had called Big Sky Airlines and talked to Mr. Marshall there. Last session, Big Sky testified as a proponent to a similar bill. Mr. Marshall said Big Sky did not take a stand on HB 573. HB 573 is a business bill. Most of the opposition is from out of state; instate supports the bill.

The hearing was closed on HB 573.

CONSIDERATION OF HOUSE BILL 755: Senator Eck submitted amendments regarding the effective date of the act and moved that the amendments, attached as Exhibit Y, be adopted. The motion was seconded and passed unanimously.

Senator Towe moved that the following amendment be adopted for clarification:

Page 5, line 9.
Following: line 8
Insert: ""[and the credits provided in SB 241]""

The motion was seconded and passed unanimously.

Norris Nichols, from the Motor Fuel Tax Division of the Department of Revenue, suggested that line 19 on page 3 be deleted and that on page 3, line 21, following "2]", "subject to the limitation in [section 3]" be inserted.

Senator Towe said he and Dan Bucks from the Department of Revenue agreed that line 19 on page 3 could be stricken. The limitation of the credit could be confusing, he said.

Senator Towe moved the following amendment:

Page 3, lines 18 and 19.
Following: "costs"
Strike: remainder of line 18 through "4]" on line 19

The motion was seconded and passed unanimously.

Senator Towe then moved the following amendment:

Page 4, line 3.
Following: "credit"
Insert: ", subject to the limitation of [section 3]"

which limits the credit to 60% of the eligible costs. The motion was seconded and passed unanimously.

Senator Towe then suggested the following amendments be made:

Page 3, line 21.
Following: "from"
Insert: "that portion of"

Page 3, line 22.
Following: "liability"
Insert: "as set forth in [section 2(1)]"

The section 2(1) limitation is one that relates to systems located in Montana produced by the means described in sections 2(1)(a), (b), or (c) under the bill. The credit would be limited to that portion of tax liability earned in Montana. The only profit you could take credit on would be from wind generation.

Senator Lynch moved that HB 755 BE CONCURRED IN AS AMENDED with no further amendments. No second was made to his motion.

The meeting adjourned at 10 a.m.

Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 4/13 /83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓ 9am		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

SENATE TAXATION COMMITTEE
EXHIBIT Y
APRIL 13, 1983
HB 755

Amend HB 755, third reading copy

1. Title, line 9.
Following: "APPLICABILITY DATE"
Insert: "AND AN IMMEDIATE EFFECTIVE DATE"

2. Page 5, line 10.
Following: "Section 9."
Strike: "Applicability"
Insert: "Effective and applicability date"
Following: "This act is"
Strike: "applicable for"
Insert: "effective on passage and approval and applies to"

3. Page 5, line 11.
Following: "December 31,"
Strike: "1983"
Insert: "1982"

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 14, 1983
Afternoon session

The sixty-eighth meeting of the Taxation Committee was continued at 1 p.m. in Room 415 of the Capitol Building, with Chairman Pat M. Goodover presiding.

ROLL CALL: All members were present.

DISPOSITION OF HOUSE BILL 755: Senator Towe moved that the following amendments be adopted:

Page 3, line 21
Following: "from"
Insert: "that portion of"

Page 3, line 22
Following: "liability"
Insert: "as set forth in [section 2(1)]"

The motion was seconded and passed, with Senators Crippen and Lynch voting no. (These are in addition to amendments previously adopted.)

Senator Towe moved that HB 755 BE CONCURRED IN AS AMENDED. The motion was seconded and passed, with Senator Elliott voting no. Senator Eck will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 925: Senator Towe recalled that Steven Wood had referred to taxing franchises. Montana doesn't tax franchises. (But Cort Harrington referred him to 15-23-101, MCA, which says they are centrally assessed.) Mr. Wood said this bill does not apportion railroad rolling stock. In section 13, we are apportioning the rolling stock to the counties. We thought it was best based on usage of the track. Mr. Wood said they would go into 51 counties and file lawsuits, and that in itself is discriminating against the railroads. In the federal Railroad Revitalization and Regulatory Reform Act of 1976 (Four R Act), section 306(2) says the United States district court has jurisdiction, provided however, it can't grant relief if the values are within 5% of the ratio of market value to assessed value. Mr. Wood referred to the Clinchfield case, a Fourth Circuit Court of Appeals case from North Carolina. That case establishes that real estate is treated as real estate and personal property is treated as personal property. This bill does exactly that. Senator Turnage recalled that the Department of Revenue had said they would not have the funds to implement this act until 1986.

ROLL CALL

SENATE TAXATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 4/14/83

1:00 meeting

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

071

April 14, 1983

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 755 be amended as follows:

1. Title, line 9.
Following: "APPLICABILITY DATE"
Insert: "AND AN IMMEDIATE EFFECTIVE DATE"

2. Page 3, lines 18 and 19.
Following: "costs"
Strike: remainder of line 18 through "4]" on line 19

3. Page 3, line 21.
Following: "from"
Insert: "that portion of"

4. Page 3, line 22.
Following: "liability"
Insert: "as set forth in [section 2(1)]"

5. Page 4, line 3.
Following: "credit"
Insert: ", subject to the limitation of [section 3],"

6. Page 5, line 9.
Following: line 8
Insert: ""[and the credits provided in SB 241]""

7. Page 5, line 10.
Following: "Section 9."
Strike: "Applicability"
Insert: "Effective and applicability date"
Following: "This act is"
Strike: "applicable for"
Insert: "effective on passage and approval and applies to"

9. Page 5, line 11.
Following: "December 31,"
Strike: "1983"
Insert: "1982"

072

STANDING COMMITTEE REPORT

April 14 19 83

MR. PRESIDENT

We, your committee on taxation

having had under consideration House Bill No. 755

Yardley (Eck)

Respectfully report as follows: That House Bill No. 755

third reading copy, be amended as follows:

1. Title, line 9.
Following: "APPLICABILITY DATE"
Insert: "AND AN IMMEDIATE EFFECTIVE DATE"

2. Page 3, lines 18 and 19.
Following: "costs"
Strike: remainder of line 18 through "4]" on line 19

3. Page 3, line 21.
Following: "from"
Insert: "that portion of"

4. Page 3, line 22.
Following: "liability"
Insert: "as set forth in [section 2(1)]"

XXXXXX

(Continued on page 2)

Chairman.

STATE PUB. CO.
Helena, Mont.

073

April 14 19 83

5. Page 4, line 3.
Following: "credit"
Insert: ", subject to the limitation of [section 3],"

6. Page 5, line 9.
Following: line 8
Insert: ""[and the credits provided in SB 241]""

7. Page 5, line 10.
Following: "Section 9."
Strike: "Applicability"
Insert: "Effective and applicability date"
Following: "This act is"
Strike: "applicable for"
Insert: "effective on passage and approval and applies to"

9. Page 5, line 11.
Following: "December 31,"
Strike: "1983"
Insert: "1982"

And, as so amended

BE CONCURRED IN

Pat M. Goodover Chairman

STATE PUB. CO.
Helena, Mont.

074 C

Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 400 - That HB 400 be concurred in. Motion carried as follows:

Ayes: Berg, Blaylock, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Fuller, Gage, Goodover, Haffey, Halligan, Hazelbaker, Jacobson, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Mazurek, McCallum, Mohar, Norman, Regan, Thomas, Towe, Van Valkenburg.
Total 29

Noes: Elliott, Etchart, Galt, Hager, Hammond, Keating, Marbut, Ochsner, Severson, Shaw, Smith, Story, Tveit, Mr. President.
Total 14

Excused: None.
Total 0

Absent or not voting: Aklestad, Boylan, Dover, Graham, Himsl, Stimatz, Turnage.
Total 7

HB 446 - That HB 446, third reading copy, be amended as follows:

1. Amendment 4.
Following: "Strike: line"
Strike: "1"
Insert: "25"

Amendment passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

That HB 446, as amended, be concurred in. Motion carried as follows:

2nd Reading 4-14-83

Ayes: Aklestad, Berg, Boylan, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Etchart, Fuller, Gage, Goodover, Haffey, Hager, Halligan, Hammond, Hazelbaker, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Severson, Shaw, Smith, Stimatz, Story, Thomas, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 42

Noes: Blaylock, Elliott, Galt, Himsl, Regan, Towe.
Total 6

Excused: None.
Total 0

Absent or not voting: Brown, Graham.
Total 2

HB 597 - That HB 597 be concurred in. Motion carried as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 745 - That HB 745 be concurred in. Motion carried as follows:

Ayes: Boylan, Brown, Conover, Daniels, Elliott, Etchart, Goodover, Haffey, Hager, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Lane, Lee, Lynch, Marbut, Mazurek, McCallum, Norman, Ochsner, Smith, Thomas, Towe, Tveit, Van Valkenburg.
Total 27

Noes: Aklestad, Berg, Blaylock, Christiaens, Eck, Fuller, Gage, Galt, Halligan, Kolstad, R. Manning, Mohar, Regan, Severson, Shaw, Mr. President.
Total 16

Excused: None.
Total 0

Absent or not voting: Crippen, Dover, Graham, D. Manning, Stimatz, Story, Turnage.
Total 7

HB 755 - That HB 755 be concurred in. Motion carried as follows:

Ayes: Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Eck, Etchart, Fuller, Goodover, Haffey, Hager, Halligan, Hazelbaker, Jacobson, Lane, Lynch, D. Manning, R. Manning, Marbut, Mazurek, Mohar, Norman, Regan, Story, Thomas, Towe, Van Valkenburg.
Total 29

Noes: Aklestad, Daniels, Elliott, Gage, Galt, Hammond, Keating, Kolstad, McCallum, Ochsner, Severson, Shaw, Turnage, Tveit, Mr. President.
Total 15

Excused: None.
Total 0

Absent or not voting: Dover, Graham, Himsl, Lee, Smith, Stimatz.
Total 6

HB 800 - That HB 800, third reading copy, be amended as follows:

1. Page 10, line 2.
Following: "ACT"
Insert: ", provided that a state match of at least $25,000 per year is secured from private donations for the purpose of administering the youth conservation corps program"

Amendment passed as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

That HB 800, as amended, be concurred in. Motion carried as follows:

Ayes: Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Haffey, Hager, Halligan, Hammond, Hazelbaker, Jacobson, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 44

Noes: Aklestad, Himsl, Keating, Severson, Shaw.
Total 5

Excused: None.
Total 0

Absent or not voting: Graham.
Total 1

HB 876 - That HB 876 be concurred in. Motion carried as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Smith, Stimatz, Story, Thomas, Towe, Turnage, Tveit, Van Valkenburg, Mr. President.
Total 50

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 902 - That HB 902, third reading copy, be amended as follows:

1. Senate Standing Committee amendment 3.
Strike: "$6,200,000"
Insert: "$9,700,000"

2. Page 15, line 7.
Following: "act."
Insert: "In distributing funds necessary to implement this act among the various state agencies, no reduction shall be made on account of vacancy savings in instructional contract faculty within the Montana University System."

Substitute motion that HB 902, third reading copy, be amended as follows:

1. Instruction to legislative fiscal staff:
The fiscal staff shall prepare [HB 902] to give a $10/month insurance increase in fiscal 1984 and another $10 per month increase in fiscal 1985. There shall be no matrix increase nor step increase for employees in fiscal 1984. In fiscal 1985, employees shall receive a 3 ½ percent pay raise in addition to the health insurance. There is $2.7 million appropriated for this purpose.

Amendment failed as follows:

Ayes: Aklestad, Crippen, Dover, Elliott, Gage, Galt, Hager, Hammond, Hazelbaker, Keating, Lee, Marbut, Severson, Shaw, Tveit, Mr. President.
Total 16

Noes: Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Daniels, Eck, Etchart, Fuller, Goodover, Haffey, Halligan, Himsl, Jacobson, Kolstad, Lane, Lynch, D. Manning, R. Manning, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Smith, Stimatz, Story, Thomas, Towe, Turnage, Van Valkenburg.
Total 33

Excused: None.
Total 0

Absent or not voting: Graham.
Total 1

That HB 902, third reading copy, be amended as follows:

1. Senate Standing Committee amendment 3.
Strike: "$6,200,000"
Insert: "$9,700,000"

2. Page 15, line 7.

Noes: None.
Total 0

Excused: Story, Tveit.
Total 2

Absent or not voting: None.
Total 0

HB 334 concurred in as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Smith, Stimatz, Thomas, Towe, Turnage, Van Valkenburg, Mr. President.
Total 47

Noes: Shaw.
Total 1

Excused: Story, Tveit.
Total 2

Absent or not voting: None.
Total 0

HB 400 concurred in as follows:

Ayes: Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Fuller, Gage, Goodover, Graham, Haffey, Hager, Halligan, Hazelbaker, Jacobson, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, Mohar, Norman, Regan, Severson, Stimatz, Thomas, Towe, Turnage, Van Valkenburg.
Total 35

Noes: Aklestad, Dover, Etchart, Galt, Hammond, Himsl, Keating, McCallum, Ochsner, Shaw, Smith, Tveit, Mr. President.
Total 13

Paired: Blaylock, Aye; Tveit, No.

Excused: Story.
Total 1

Absent or not voting: Elliott.
Total 1

HB 446 concurred in as follows:

Ayes: Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Elliott, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hazelbaker, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Shaw, Thomas, Turnage, Van Valkenburg, Mr. President.
Total 42

Noes: Aklestad, Hammond, Himsl, Smith, Stimatz, Towe.
Total 6

Excused: Story, Tveit.

3rd Reading 4-15-83

Total 2

Absent or not voting: None.
Total 0

HB 597 concurred in as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Eck, Etchart, Fuller, Gage, Galt, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Mohar, Norman, Ochsner, Regan, Severson, Smith, Stimatz, Thomas, Towe, Turnage, Van Valkenburg, Mr. President.
Total 46

Noes: Shaw.
Total 1

Excused: Story, Tveit.
Total 2

Absent or not voting: Elliott.
Total 1

HB 745 concurred in as follows:

Ayes: Aklestad, Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Dover, Elliott, Etchart, Fuller, Gage, Goodover, Graham, Haffey, Hager, Halligan, Hammond, Hazelbaker, Himsl, Jacobson, Keating, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, McCallum, Norman, Ochsner, Severson, Smith, Stimatz, Thomas, Towe, Turnage, Van Valkenburg, Mr. President.
Total 43

Noes: Eck, Galt, Regan, Shaw.
Total 4

Excused: Story, Tveit.
Total 2

Absent or not voting: Mohar.
Total 1

HB 755 concurred in as follows:

Ayes: Berg, Blaylock, Boylan, Brown, Christiaens, Conover, Crippen, Daniels, Eck, Elliott, Etchart, Fuller, Gage, Goodover, Graham, Haffey, Hager, Halligan, Hazelbaker, Himsl, Jacobson, Kolstad, Lane, Lee, Lynch, D. Manning, R. Manning, Marbut, Mazurek, Mohar, Norman, Ochsner, Regan, Severson, Smith, Stimatz, Thomas, Towe, Van Valkenburg, Mr. President.
Total 40

Noes: Aklestad, Dover, Galt, Hammond, Keating, McCallum, Shaw, Turnage.
Total 8

Excused: Story, Tveit.
Total 2

Absent or not voting: None.
Total 0

HB 800 concurred in as follows:

Excused: Fabrega, Harrington.
Total 2

Absent or not voting: Hammond, Jones, Marks, Stobie.
Total 4

Representatives Fabrega and Harrington present at this time.

Representative Waldron excused at this time.

HB 544 - That Senate amendments to HB 544 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 97

Noes: Sales.
Total 1

Excused: Waldron.
Total 1

Absent or not voting: Dozier.
Total 1

HB 597 - That Senate amendments to HB 597 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Daily, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 94

Noes: Curtiss, Hannah, Hanson, Sales.
Total 4

Excused: Waldron.
Total 1

Absent or not voting: Dozier.
Total 1

HB 600 - That Senate amendments to HB 600 be concurred in. Motion carried as follows:

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Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hanson, Harp, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McCormick, Marks, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Sands, Saunders, Schultz, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 87

Noes: D. Brown, Hansen, Harper, Jones, Kemmis, McBride, Nordtvedt, Ryan, Sales, Schye, Vincent.
Total 11

Excused: Waldron.
Total 1

Absent or not voting: Manuel.
Total 1

HB 745 - Representative Schye moved that Senate amendments to HB 745 be concurred in. Representative Bardanouve made a substitute motion that Senate amendments to HB 745 be not concurred in. The substitute motion carried as follows:

Ayes: Abrams, Addy, Asay, Bardanouve, Bengtson, Bertelsen, Bliss, Brand, J. Brown, Compton, Connelly, Curtiss, Daily, Devlin, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Lory, Lybeck, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Veleber, Vincent, Wallin, Williams, Winslow, Yardley.
Total 84

Noes: Bachini, D. Brown, Jacobsen, Mueller, Peck, Schye, Underdal, Vinger.
Total 8

Excused: Waldron.
Total 1

Absent or not voting: Bergene, Darko, Donaldson, Dozier, Koehnke, McBride, Zabrocki.
Total 7

HB 755 - That Senate amendments to HB 755 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Devlin, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman,

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Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Saunders, Schultz, Schye, Shontz, Smith, Solberg, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 90

Noes: Sands, Spaeth.
Total 2

Excused: Waldron.
Total 1

Absent or not voting: Darko, Donaldson, Dozier, Harrington, McBride, McCormick, Seifert.
Total 7

Representative Harrington excused at this time.

HB 721 - That the Governor's amendments to HB 721 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Shontz, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 93

Noes: None.
Total 0

Excused: Harrington, Waldron.
Total 2

Absent or not voting: Darko, Dozier, McCormick, Seifert, Smith.
Total 5

Representative Bengtson excused at this time.

HB 800 - That Senate amendments to HB 800 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Bachini, Bardanouve, Bergene, Bertelsen, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, Jones, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Winslow, Yardley, Zabrocki.
Total 91

079

Noes: Asay, Bliss, Ramirez.
Total 3

Excused: Bengtson, Harrington, Waldron.
Total 3

Absent or not voting: Dozier, R. Jensen, McCormick.
Total 3

Representatives Bengtson and Harrington present at this time.

Representatives Quilici and Yardley excused at this time.

HB 815 - That Senate amendments to HB 815 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Donaldson, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Lory, Lybeck, McBride, McCormick, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Ream, Roush, Ryan, Sales, Saunders, Schultz, Schye, Seifert, Shontz, Solberg, Spaeth, Thoft, Underdal, Veleber, Vincent, Wallin, Williams, Winslow, Zabrocki.
Total 82

Noes: Asay, Devlin, Hannah, Jones, Koehnke, Ramirez, Sands, Smith, Stobie, Swift, Switzer, Vinger.
Total 12

Excused: Quilici, Waldron, Yardley.
Total 3

Absent or not voting: Dozier, R. Jensen, Marks.
Total 3

HB 819 - That Senate amendments to HB 819 be concurred in. Motion carried as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Kadas, Keenan, Kemmis, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Ramirez, Ream, Roush, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Solberg, Spaeth, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Wallin, Williams, Zabrocki.
Total 90

Noes: Bardanouve, Connelly, Jones, Ryan, Smith, Stobie.
Total 6

Excused: Quilici, Waldron, Yardley.
Total 3

Absent or not voting: Winslow.
Total 1

3rd Reading

Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 92

Noes: Ellerd, Hannah, Hanson, Pavlovich, Sales.
Total 5

Excused: None.
Total 0

Absent or not voting: Ellison, Keyser, Lory.
Total 3

HB 600, Senate amendments, concurred in as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hanson, Harp, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Keenan, Keyser, Kitselman, Koehnke, Lory, Lybeck, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Solberg, Spaeth, Swift, Switzer, Thoft, Underdal, Veleber, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 85

Noes: D. Brown, Ellerd, Hansen, Harper, Jones, Kadas, Kennerly, McBride, Nisbet, Nordtvedt, Ryan, Sales, Smith, Stobie, Vincent.
Total 15

Excused: None.
Total 0

Absent or not voting: None.
Total 0

HB 755, Senate amendments, concurred in as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 99

Noes: Nordtvedt.
Total 1

Excused: None.
Total 0

Absent or not voting: None.
Total 0

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HB 721, Governor's amendments, concurred in as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ramirez, Ream, Roush, Ryan, Sales, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 99

Noes: None.
Total 0

Excused: None.
Total 0

Absent or not voting: Lybeck.
Total 1

HB 800, Senate amendments, concurred in as follows:

Ayes: Abrams, Addy, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Devlin, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hannah, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Iverson, Jacobsen, J. Jensen, R. Jensen, Jones, Kadas, Keenan, Kennerly, Keyser, Kitselman, Koehnke, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ream, Roush, Ryan, Sands, Saunders, Schultz, Schye, Seifert, Shontz, Smith, Solberg, Spaeth, Stobie, Swift, Switzer, Thoft, Underdal, Veleber, Vincent, Vinger, Waldron, Wallin, Williams, Winslow, Yardley, Zabrocki, Mr. Speaker.
Total 94

Noes: Asay, Bliss, Nordtvedt, Ramirez, Sales.
Total 5

Excused: None.
Total 0

Absent or not voting: Howe.
Total 1

HB 815, Senate amendments, concurred in as follows:

Ayes: Abrams, Addy, Asay, Bachini, Bardanouve, Bengtson, Bergene, Bertelsen, Bliss, Brand, D. Brown, J. Brown, Compton, Connelly, Curtiss, Daily, Darko, Donaldson, Dozier, Driscoll, Ellerd, Ellison, Ernst, Eudaily, Fabrega, Fagg, Farris, Hammond, Hand, Hansen, Hanson, Harp, Harper, Harrington, Hart, Hemstad, Holliday, Howe, Iverson, Jacobsen, J. Jensen, R. Jensen, Kadas, Keenan, Kennerly, Kitselman, Lory, Lybeck, McBride, McCormick, Marks, Manuel, Menahan, Metcalf, Miller, Mueller, Neuman, Nilson, Nisbet, Nordtvedt, O'Connell, Pavlovich, Peck, Phillips, Pistoria, Quilici, Ream, Roush, Ryan, Sales, Saunders, Schultz, Schye, Seifert,

HOUSE BILL NO. 755

INTRODUCED BY YARDLEY, FABREGA, METCALF, MCBRIDE, SCHYE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A CREDIT AGAINST INDIVIDUAL PARTNERSHIP, SMALL BUSINESS CORPORATION, OR CORPORATE INCOME TAX LIABILITY FOR CAPITAL EXPENDITURES FOR COMMERCIAL SYSTEMS THAT GENERATE ELECTRICITY BY MEANS OF WIND POWER; PROVIDING FOR LIMITATION ON AND CARRYOVER OF THE CREDIT; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose and statement of policy. The purpose of [this act] is to encourage the development of a wind energy industry in Montana without adversely affecting tax revenues received from existing economic activity in the state. Because of the wind energy potential within the state, it is desirable to encourage wind energy generation for the purpose of attracting wind energy manufacturing industries to the state. It is also desirable for new or expanded industry to secure wind-generated electricity on a direct contract sales basis without adversely affecting rates charged to other electricity users. Sound fiscal policy requires that encouragement be given to a wind energy industry without subtracting from existing sources of revenue to the state.

Section 2. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in 15-31-201 that makes an investment of $5,000 or more in CERTAIN DEPRECIABLE PROPERTY QUALIFYING UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, FOR a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

(a) manufacturing plants located in Montana that produce wind energy generating equipment;

(b) a new business facility or the expanded portion of an existing business facility for which the wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or

(c) the wind energy generating equipment in which the investment for which a credit is being claimed was made.

(2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1), eligible costs include only those EXPENDITURES THAT QUALIFY UNDER SECTION 38 OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED,

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AND THAT ARE associated with the purchase, installation, or upgrading of:

(a) generating equipment;

(b) safety devices and storage components;

(c) transmission lines necessary to connect with existing transmission facilities; and

(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.

(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.

Section 3. Limitation on credit. Whenever any federal wind energy tax credits for a system that generates electricity by means of wind power are allowed or allowable under section 48(l) of the Internal Revenue Code or any other federal law, the state credit allowed by [section 2] must be reduced by the amount of federal credits so that the effective credit does not exceed 60% of the eligible costs, ~~notwithstanding the carryover provision of [section 4]~~.

Section 4. Carryover of credit. The tax credit allowed under [section 2] is to be deducted from THAT PORTION OF the taxpayer's tax liability AS SET FORTH IN [SECTION 2(1)] for the taxable year in which the equipment invested in by the taxpayer is placed in service. If the amount of the tax

credit exceeds the taxpayer's tax liability for the taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxpayer's tax liability in the next succeeding taxable year or years until the total amount of the tax credit, SUBJECT TO THE LIMITATION OF [SECTION 3], has been deducted from tax liability. However, no credit may be carried beyond the seventh taxable year succeeding the taxable year in which the equipment was placed in service.

Section 5. Exclusion from other tax incentives. If a credit is claimed for an investment pursuant to [this act], no other state energy or investment tax credit, including but not limited to the tax credits allowed by 15-30-162, and 15-31-123 THROUGH 15-31-125, [AND THE CREDITS PROVIDED IN SB 241], may be claimed for the investment. Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed pursuant to [this act].

Section 6. Separation of credit portion. In the case of a business, a portion of which qualifies for the credit pursuant to [section 2] and a portion of which does not qualify for the credit, taxes due from each portion must be separated by using the three-factor formula provided in 15-31-305.

Section 7. Rules authorized. The department of revenue

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is authorized to adopt rules to implement [this act]. The purpose of such rules must be to insure the following:

(1) proper and efficient administration of [this act];

(2) proper reporting of information and payment of any amounts due by persons claiming the credit pursuant to [this act];

(3) the claiming of the credit only against taxes due as a consequence of income produced by new economic activity in the state as described in [section 2].

SECTION 8. COORDINATION INSTRUCTION. IF SENATE BILL NO. 241 IS NOT PASSED AND APPROVED, THE BRACKETED LANGUAGE [AND THE CREDITS PROVIDED IN SB 241] IN SECTION 5 IS DELETED FROM THIS ACT.

Section 9. ~~Applicability~~ EFFECTIVE AND APPLICABILITY DATE. This act is ~~applicable for~~ EFFECTIVE ON PASSAGE AND APPROVAL AND APPLIES TO tax years beginning after December 31, ~~1983~~ 1982.

-End-

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